AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

9-21-90
Vol. 55 No. 184

federal register

Friday
September 21, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

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Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

9-21-90
Vol. 55 No. 184
Pages 38791-38968

Federal Register

Friday
September 21, 1990

Briefing on How To Use the Federal Register
For information on a briefing in Dallas, TX, see announcement on the inside cover of this issue.

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DALLAS, TX

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 736]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from September 23 through September 29, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATE: Regulation 736 (7 CFR part 910) is effective for the period from September 23 through September 29, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's most recent estimate (September 12) of 1990–91 production is 42,100 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,881 cars during the 1989–90 season. The production area is divided into three districts which span California and Arizona. The Commitee estimates District 1, central California, 1990–91 production at 6,600 cars compared to the 4,158 cars produced in 1989–90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 10,800 cars compared to the 9,436 cars produced last year. On October 11, 1990, the National Agricultural Statistics Service will publish an estimate of the 1990–91 lemon crop.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its earlier crop estimate of 40,834 cars, the Committee estimates that about 44 percent of the 1990–91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989–90 total of 16,600 cars, about 44 percent of the total production of 37,881 cars in 1989–90. Fresh exports are projected at 22 percent of the total 1990–91 crop utilization compared with 22 percent in 1989–90. Processed and other uses would account for the residual 34 percent compared with 34 percent of the 1989–90 crop. Based on the September 12 revised crop estimate, the Committee is expected to revise its utilization schedule in the near future.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers and consumers. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season and to avoid unreasonable fluctuations in supplies and prices.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

The Committee submitted its marketing policy for the 1990–91 season to the Department on June 19. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on September 18, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 310,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990–91 marketing policy. This recommended amount is 11,000 cartons above the estimated projections in the Committee's current shipping schedule.

During the week ending on September 15, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 304,000 cartons compared with 284,000 cartons shipped during the week ending on September 16, 1989. Export shipments totaled 116,000 cartons compared with 102,000 cartons shipped during the week ending on September 16, 1989. Processing and other uses accounted for 191,000 cartons compared with 103,000 cartons shipped during the week ending on September 16, 1989.

Fresh domestic shipments to date for the 1990–91 season total 2,131,000 cartons compared with 2,049,000 cartons shipped by this time during the 1989–90 season. Export shipments total 898,000 cartons compared with 961,000 cartons shipped by this time during 1989–90. Processing and other use shipments total 1,624,000 cartons compared with 806,000 cartons shipped by this time during 1989–90.

For the week ending on September 15, 1990, regulated shipments of lemons to the fresh domestic market were 304,000 cartons on an adjusted allotment of 344,000 cartons which resulted in net undershipments of 40,000 cartons. Regulated shipments for the current week (September 16 through September 22, 1990) are estimated at 315,000 cartons on an adjusted allotment of 348,000 cartons. Thus, undershipments of 33,000 cartons could be carried over into the week ending on September 29, 1990.

The average f.o.b. shipping point price for the week ending on September 15, 1990, was $12.77 per carton based on a reported sales volume of 305,000 cartons compared with last week's average of $12.58 per carton on a reported sales volume of 325,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $12.67 per carton. The average f.o.b. shipping point price for the week ending on September 16, 1989, was $15.01 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $14.44 per carton.

The Department's Market News Service reported that, as of September 18, demand is very good for first grade California-Arizona lemons. The market is firm for choice fruit ranging in sizes from 140 through 235. The market is "steady" for all other grades and sizes of lemons. At the meeting, Committee members commented that demand for lemons is strong. One Committee member also commented that the transitional period at this time should be closely monitored since District 2 is almost finished, hot and humid weather conditions have interfered with harvesting activities in District 3, and harvesting in District 1 will commence in late September or early October. The Committee unanimously recommended volume regulation for the period from September 23 through September 29, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1990–91 season average fresh on-tree price is estimated at $9.54 per carton, 116 percent of the projected season average fresh on-tree parity equivalent price of $8.20 per carton. The California-Arizona 1989–90 season average fresh on-tree price is estimated at $8.53, 114 percent of the projected season average fresh on-tree parity equivalent price of $7.47 per carton.

Limiting the quantity of lemons that may be shipped during the period from September 16 through September 22, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register.** This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until September 18, 1990, and this action needs to be effective for the regulatory week which begins on September 23, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.1036 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.1036 Lemon regulation 736.

The quantity of lemons grown in California and Arizona which may be handled during the period from September 23 through September 29, 1990, is established at 310,000 cartons.

Dated: September 19, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-22556 Filed 9-20-90; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 981

[Docket No. FV-90-185FR]

Almonds Grown in California; Salable, Reserve, and Export Percentages for the 1990-91 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes salable, reserve, and export percentages of 65 percent, 35 percent, and 0 percent, respectively, for marketable California almonds received by handlers during the 1990-91 crop year, which began on July 1, 1990. This action is taken under the marketing order for almonds grown in California and is intended to avoid unreasonable fluctuations in shipments and prices in view of a projected record-large California almond supply. This action is based on recommendations of the Almond Board of California (Board), which is responsible for local administration of the order, comments received in response to a proposed rule on this issue, and other available information.

EFFECTIVE DATE: This final rule will take effect on October 22, 1990, and will apply to all almonds received by handlers during the 1990-91 crop year, which began on July 1, 1990, and ends on June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing agreement and Order No. 981 (7 CFR part 981), both as amended, hereinafter referred to as the order, regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter refered to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 95 handlers of almonds who are subject to regulation under the marketing order and approximately 7,000 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action requires handlers of California almonds to withhold, as a reserve, from normal domestic and export markets, 35 percent of merchantable almonds received from growers during the 1990-91 crop year. The remaining 65 percent (the salable percentage) of the crop could be sold by handlers in any market. Total 1990 crop production is expected to be 655 million kernelweight pounds. If realized, this would be the second largest domestic crop on record, only 0.8 percent smaller than the record large 1987 corp of 660 million kernelweight pounds. Total 1990-91 crop year supplies (1990 crop marketable production plus marketable production carried in from the 1989-90 crop year) are projected at a record large 844 million kernelweight pounds—6.5 percent larger than the previous record supply of 792.4 million kernelweight pounds during the 1988-89 crop year. Domestic and export trade demand for 1990-91 is estimated at 565 million kernelweight pounds.

Reserve almonds could be released to the salable category at a later date if it is found that the salable percentage is insufficient to satisfy 1990-91 trade demand, or for desirable carryover requirements for use during the 1991-92 crop year if it appears that the 1991 crop will be insufficient to meet 1991-92 trade demand needs. Otherwise, reserve almonds would be diverted to secondary outlets that are not competitive with existing normal markets. These outlets would include almond oil, almond butter, animal feed, and other secondary outlets which are noncompetitive with existing normal markets for almonds.

While this rule may restrict the amount of almonds which handlers may sell in normal domestic and export markets, the salable and reserve percentages are needed to lessen the impact of the oversupply situation facing the industry and to promote stronger marketing conditions, thus avoiding unreasonable fluctuations in prices and supplies and improving grower returns. Further, this action could help provide interseason market stability by reserving almonds for shipment during the 1991-92 season in the event that 1991 production is below trade demand needs.

This action is based on two recommendations of the Board, comments received in response to a proposed rule on this issue (55 FR 32638), and other available information.

Authority to estabish salable, reserve, and export percentages is provided in § 981.47 of the order. Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommnendation for salable, reserve, and export percentages of 65 percent, 35 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1990-91 crop year. The Board's 1990 marketable production estimate of 629 million kernelweight pounds is based on a 1990 crop estimate issued by the National Agricultural Statistics Service of 655 million kernelweight pounds, minus an estimated weight loss of 26 million kernelweight pounds resulting from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 565 million kernelweight pounds—190 million pounds for domestic needs and 375 million pounds for export needs. An inventory adjustment was made to account for supplies of salable almonds carried in from the 1989-90 crop year on July 1, 1990, and for supplies of salable almonds deemed desirable to be carried out on June 30, 1991, for early season shipment during the 1991-92 crop year until the 1991 crop is available for market. After adjusting for inventory, the trade demand was calculated at 409 million kernelweight pounds. This is the quantity of almonds from the estimated 1990 marketable production deemed

necessary to meet trade demand needs. The salable percentage of 65 percent would meet those needs.

The remaining 35 percent (220 million kernelweight pounds) of the 1990 crop marketable production will be withheld by handlers to meet their reserve obligations. All or part of these almonds could be released to the salable category if it is found that the supply made available by the salable percentage is insufficient to satisfy 1990–91 trade demand needs, or for desirable carryover requirements for use during the 1991–92 crop year. The Board is required to make any recommendations to the Secretary to increase the salable percentage prior to May 15, 1991. Alternatively, all or a portion of reserve almonds would be sold by the Board, or by handlers under agreement with the Board, to governmental agencies or charitable institutions or for diversion into almond oil, almond butter, animal feed, or other outlets which the Board finds are noncompetitive with existing normal markets for almonds.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1990–91 crop year, estimated exports are included in the trade demand. Thus, an export percentage of 0 percent is established by this action. Therefore, reserve almonds would not be eligible for export to normal export outlets. However, handlers may ship their salable almonds in export markets.

A tabulation of the estimates and calculations used by the Board in arriving at its recommendations follows:

MARKETING POLICY ESTIMATES—1990 CROP

(KERNELWEIGHT BASIS)

	Million pounds	Percent
Estimated Production:		
1. 1990 Production	655.0	
2. Loss and Exempt—4.0%	26.0	
3. Marketable Production	629.0	
Estimated Trade Demand:		
4. Domestic	190.0	
5. Export	375.0	
6. Total	565.0	
Inventory Adjustment:		
7. Carry in 7/1/90	215.0	
8. Desirable Carryover 6/30/91	59.0	
9. Adjustment (Item 8 minus item 7)	(156.0)	
Salable/Reserve:		
10. Adjusted Trade Demand (Item 6 plus item 9)	409.0	
11. Reserve (Item 3 minus item 10)	220.0	
12. Salable % (Item 10 divided by item 3×100)		65
13. Reserve % (100% minus item 12)		35

This proposed action would help avoid unreasonable fluctuations in shipments and prices as the industry faces what is projected to be the second largest crop and largest total supply on record. The projected 1990–91 crop year supply of 844 million marketable kernelweight pounds would be 28 percent larger than the 657.8 million kernelweight pound average annual supply for the last five years (1985–86 through 1989–90). Although official estimates of world almond production were not available when this recommendation was made by the Board, it is likely that world production will also be high, barring a major crop failure in any of the other major almond producing countries.

In making its recommendations, the Board considered information and analyses presented at public meetings from a variety of sources including handlers, marketers, buyers, and producers of almonds. Input at the meetings varied from open discussions to the presentation of an economic study designed to assist the Board in arriving at its recommendation for 1990–91 crop year salable and reserve percentages.

The "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) issued by the AMS in 1982 specify that 110 percent of recent years' sales be made available to primary markets each season. This action would provide an estimated 624 million kernel weight pounds of California almonds for unrestricted sales (1990 crop salable production plus carryin from the 1989 crop) to meet increasing domestic and world almond consumption demand. This amount exceeds the current record for delivered sales of California almonds, set in 1988–89, by 19 percent. Thus, the Guidelines requirement would be met.

Notice of this action was published in the **Federal Register** on August 10, 1990 (55 FR 32638). Written comments from interested persons were invited through August 27, 1990. Sixty-six comments were received. Of these 66 comments, 62 opposed the establishment of a 35 percent reserve, one supported the establishment of a 35 percent reserve, two favored the establishment of a 25 percent reserve, and one objected only to the 59 million kernelweight pound desirable carryover figure. Of the 62 comments in opposition to the establishment of the reserve, 52 were from growers, five were from handlers, four were from consumers, and one was from a manager of almond orchards. The comment in favor of the 35 percent reserve represented a cooperative handler and approximately 5,000 growers. Both of the comments in favor of a 25 percent reserve were from growers, and the comment which objected only to the 59 million kernelweight pound carryover figure was from a handler.

Many commenters who opposed the 35 percent reserve indicated that there is an over production of California almonds and that holding almonds in reserve this year will add to the surplus in following years. Over the past decade, however, annual marketable production has failed to meet trade demand needs for the 1983–84, 1985–86, 1986–87, and 1989–90 crop years. Given the wide swings in production from year to year which characterize the almond industry, it is possible that the 1991 crop could fall short of 1991–92 trade demand needs. If early projections of the 1991 crop indicate that this would likely be the case, an appropriate quantity of 1990–91 crop year reserve almonds would be released to the salable category to augment 1991–92 crop year supplies. Otherwise, 1989–90 crop year reserve almonds would likely be disposed of in secondary outlets which do not compete with normal markets for almonds.

Numerous commenters indicated that the Board's estimated trade demand for the 1990–91 crop year of 565 million pounds is too low. Many of these commenters stated that if the price for almonds was lower, more consumers would buy almonds and would continue to buy almonds even if prices rose in future years. The 565 million pound estimated trade demand, however, is 7.6 percent higher than the 1988–89 record for delivered sales of 525 million pounds. At this time, it is doubtful that additional almonds could be sold by handlers to consumers and users without a reduction in price, and this price reduction would almost certainly be reflected in the prices which handlers pay growers for their almonds.

It should be pointed out that the Board is very concerned about developing new markets for almonds. Section 981.66(c) of the order specifies outlets for reserve almonds. These outlets include sales to charitable institutions and sales for diversion into animal feed or almond oil, for which the handler receives a lower

price. The outlets also include sales to governmental agencies and sales for diversion into almond butter. Section 981.66(c) of the order also specifies that, in addition to the reserve outlets specified in the order, the Board may designate as reserve outlets other markets which it finds are noncompetitive with existing normal markets for almonds. It is expected that the Board will designate new reserve outlets for this year. The Board hopes that these markets will eventually become outlets for salable almonds at normal market prices.

Many growers indicated that, without a reserve, the small handlers to whom they deliver would have no difficulty marketing all of their almonds. Many of these commenters alleged that the reserve would only benefit Blue Diamond Growers (Blue Diamond), the largest cooperative in the industry, because they market approximately one-half of the annual marketable production. Two commenters indicated that the reserve would not have an impact on Blue Diamond because Blue Diamond could not process and market 65 percent of its almonds by the time that reserve almonds would likely be released to the salable category.

These comments do not take into account the fact that if there was no volume regulation, many small handlers might try to sell their almonds quickly in order to reduce storage or holding costs. Although large handlers traditionally market throughout the crop year, it is reasonable to assume that, without regulation, they also might seek to market more of their almonds early in the crop year.

Without a reserve, both large and small handlers, under pressure of record large supplies, would aggressively market their almonds early in the season. Prices likely to be received by handlers in this situation would not be the same as prices with a reserve in place. Without a reserve, prices would be expected to be lower in an oversupplied market. Thus, no particular handler would be able to market its almonds immediately without price concessions which would likely impact growers.

Many growers indicated that a 35 percent reserve would cause them financial hardship. Several of these commenters indicated that the proceeds they receive from the salable portion of their crops would not be sufficient to cover cultural costs or payments on bank loans. Many growers indicated that they did not believe that withholding 35 percent of the crop in reserve would give them 35 percent more income from the salable portion of the crop.

These commenters appear to equate the reserve to losing 35 percent of their crop. In actual practice, the 35 percent reserve is not lost to the market. For example, a portion of the reserve may be released to the salable category later in the season, once a portion of the crop has been marketed and the danger of an oversupplied market early in the season, with consequent price reductions, has passed. Of those almonds sold by handlers in reserve outlets, many are expected to be sold by handlers in noncompetitive markets which command prices which are only slightly below prices for salable almonds. While some reserve almonds may be sold in low-value outlets, the improved prices received for the salable portion of the crop and the improved stability of the industry are expected to more than compensate for any price reduction.

Many commenters indicated that a reserve requirement would place the California almond industry at a competitive disadvantage with other producing countries. These commenters indicated that other producing countries could freely export almonds to the United States without being subject to any reserve withholding restrictions. In fact, imports of almonds into the United States have been negligible (including years during which reserve percentages were imposed on handlers). For the five year period 1984–85 through 1988–89, imports of almonds into the United States averaged only 670,000 kernelweight pounds annually, slightly more than one-tenth of one percent of the estimated trade demand for the 1990–91 crop year. For the current crop year, imports are expected to remain at an insignificant level.

Three handlers raised objections concerning terms and conditions which they expected to be included in the Board's 1990–91 agency agreement. The agency agreement is a voluntary contract with the Board signed by handlers who wish to dispose of their reserve almonds on their own rather than through the Board. The agency agreement is authorized by § 981.67 of the order, which states that the Board shall authorize handlers to act as agents of the Board for the disposition of reserve almonds upon such reasonable terms and conditions as the Board may specify. However, the agency agreement is not part of this current rulemaking action.

Two of the commenters who raised objections concerning the agency agreement indicated that they expected the Board to specify in the agency agreement new outlets for the disposition of reserve almonds which are not truly noncompetitive with existing normal markets for almonds. These commenters indicated that these markets, such as sales of sample packets of almonds to airlines for distribution to their customers, have already been developed by certain larger handlers and are not open to smaller handlers. These commenters indicated that designating such preexisting markets as noncompetitive markets eligible for reserve disposition would give an unfair advantage to the handlers who are already utilizing those markets.

The Board met on September 12, 1990, and recommended an agency agreement for the 1990–91 crop year which includes several outlets for the disposition of reserve almonds, including sales of sample packets to airlines. The AMS is in the process of reviewing this agency agreement to ensure that it conforms with the provisions of the order and the Act. As part of this review, the AMS will evaluate designated markets for reserve almonds to ensure that they are noncompetitive with existing normal markets for almonds. The AMS will approve those outlets which it finds are noncompetitive with existing markets.

The third commenter who raised objections concerning the agency agreement indicated that the 1990–91 agency agreement would not permit the sale of reserve almonds to foreign manufacturers of almond butter. The agency agreement recommended by the Board on September 12, 1990, does, in fact, provide that sales of reserve almonds to manufacturers of almond butter may only be made to domestic almond butter manufacturers. While agency agreements for prior crop years have allowed sales to foreign almond butter manufacturers, the Board found that it was difficult to ensure that such manufacturers were converting almonds they received into almond butter in compliance with the order. The AMS will consider this issue as part of its review of the 1990–91 crop year agency agreement.

One commenter stated that the 15-day comment period provided in the proposed rule was insufficient. The proposed rule, however, contained a finding that a 15-day comment period was appropriate because handlers, buyers, and producers need to know as soon as possible the extent to which volume regulation may be put into effect this crop year. As previously mentioned, comments were received from 66 growers, handlers, and consumers of almonds in response to the proposal,

which indicates that interested persons had sufficient time to submit their views.

Two commenters stated that a 35 percent reserve is violative of the U.S. Constitution because it amounts to a "taking" without compensation. The AMS, however, has reviewed this issue and concludes that the authority to establish reserve percentages for California almonds is authorized under the order and the Act and is constitutional.

Two commenters pointed out that the proposed rule did not discuss a resolution passed by the Board on July 25, 1990. This resolution stated that the Board will not recommend at any time that the salable percentage for the 1990–91 crop year be increased to more than 93 percent of marketable production. The Board believes that while additional almonds may need to be released to the salable category at a future date if it is found that the salable percentage established by this action is insufficient to satisfy 1990–91 trade demand needs, or for desirable carryover requirements for use during the 1991–92 crop year, 7 percent of marketable production will not be needed for this purpose. The AMS did not discuss this resolution as part of the proposed rule on this rulemaking action because the resolution does not affect the establishment of a 65 percent salable percentage and a 35 percent reserve percentage. Notwithstanding the Board's resolution, it may be found desirable to release all of the reserve almonds to the salable category at a later date.

Two commenters stated that when the reserve recommendation was recommended by the Board, the Board was unaware of the AMS's position that the reserve could not be divided into an allocated portion, which could be disposed of by handlers immediately in reserve outlets, and an unallocated portion, which had to be held by handlers for allocation at a later date. These commenters indicated that the salable and reserve percentages recommended by the Board might have been different if the Board had been aware of this position. It appears that the Board was aware of this position at its July 25, 1990, meeting when the Board's final resolution on 1990–91 salable and reserve percentages was made. That resolution contained no recommendation for allocated and unallocated percentages. Further, there is no authority for an unallocated reserve in the order.

Two commenters suggested an alternative method of establishing a reserve of 35 percent of marketable production for the 1990–91 crop year. These commenters suggested exempting the first 15 million kernelweight pounds of almonds received by a handler and placing a reserve of 40 percent of marketable production on all almonds received by a handler in excess of 15 million kernelweight pounds. This method, however, is not authorized under the order.

In addition, two commenters recommended an alternative level of reserve, 25 percent, without further elaboration. However, for the reasons stated herein, a 35 percent level is appropriate.

One commenter stated that the proposed reserve would violate sections 608c(6) (C), (D), and (E) of the Act because these sections require that reserves should be equally and equitably apportioned among all handlers and that the burden must be equalized. This commenter indicated that Blue Diamond would have no burden if the proposed reserve were established because they could not market their carryin and 65 percent of their 1990–91 marketable production by the time that reserve almonds would likely be released to the salable category.

Sections 608c(6) (C) and (D) of the Act provide the authority for the establishment of salable and reserve percentages under the almond marketing order. Section 608c(6)(E) is not authority for this program. Section 608c(6)(C) provides that salable and reserve percentages may be established under a uniform rule based on the amounts which each such handler has available for current shipment and equitably apportioned among all handlers. Section 608c(6)(D) allows for equalizing the burden of surplus elimination or control among producers or handlers. It is the position of the AMS that this rule which establishes salable and reserve percentages for the 1990–91 crop year conform to the provisions of the Act.

Two comments concerned the classification of the proposed reserve rule as a "major" or a "non-major" rule. The Department, in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291, determined the rule to be a "non-major" rule.

The commenters, in voicing objections to the "non-major" status of the rule, calculated the total dollar value of the reserve (estimated at 220 million kernelweight pounds) and equated this figure to lost revenue. In actual practice, the reserve does not equal lost revenue because such a calculation does not take into account expected improved returns for the 65 percent salable portion of the crop or the returns received for the 35 percent of the crop which will be sold in noncompetitive outlets or released to the salable category at a later date.

Three handlers indicated that the Board's desirable carryover figure of 59 million kernelweight pounds is too low. One commenter expressed concern that the carryout figure is much lower than the desirable carryover figures included in Board marketing policies for recent years, which the commenter stated have been set at least 80 million kernelweight pounds. Two commenters objected to the fact that the Board lowered its recommended desirable carryover from 93 million kernelweight pounds recommended at its June 27, 1990, meeting to 59 million kernelweight pounds recommended at its July 25, 1990, meeting. The Board initially recommended the 35 percent reserve at its June 27, 1990, meeting. Between that date and Board's July 25, 1990, meeting, several of the figures upon which the initial 35 percent reserve recommendation was based changed. These changes included a decrease in estimated marketable production from 643 million kernelweight pounds to 629 million kernelweight pounds and a decrease in carryin as of July 1, 1990, from 240 million kernelweight pounds to 215 million kernelweight pounds.

In evaluating this issue, the AMS has examined actual industry shipment figures for the last five years for the period July 1 through August 31. The new crop year begins on July 1 and new crop almonds are harvested beginning in August and are expected to be available for shipment beginning about September 1. For the crop years 1985–86 through 1989–90, shipments for the July 1 through August 31 period have ranged from 55 million kernelweight pounds to 86 million kernelweight pounds. The Board's recommended desirable carryover of 59 million pounds should be sufficient to meet trade demand needs given the fact that a portion of the 35 percent reserve is available to be released to the salable category before September 1, 1991.

Therefore, for the reasons stated, the above comments are denied.

The commenter in favor of the proposed 35 percent reserve indicated that if there were no reserve percentage and the California almond industry marketed its total available supply, buyers would tend not to buy until they believed that the market price had

reached its lowest level. The commenter indicated that this would benefit buyers rather than growers. This commenter pointed out that uncertainty in the market encourages speculation, whereby buyers purchase larger supplies than needed and wait for the market to advance. The commenter indicated that the establishment of a 35 percent reserve would help solve these problems.

Based on the above, the Administrator of the AMS has determined that the issuance of this final rule will not have a significant economic effect on a substantial number of small entities.

After consideration of all relevant material presented, including the Board's recommendations, the comments received, and other available information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

Subpart—Salable, Reserve, and Export Percentages.

2. Section 981.237 is added to read as follows:

Note.—This section will not appear in the annual Code of Federal Regulations.

§ 981.237 Salable, reserve, and export percentages for almonds during the crop year beginning on July 1, 1990.

The salable, reserve, and export percentages during the crop year beginning on July 1, 1990, shall be 65 percent, 35 percent, and 0 percent, respectively.

Dated: September 19, 1990.

Charles R. Brader,

Director, Fruit and Vegetable Division.

[FR Doc. 90–22557 Filed 9–20–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 90–17]

Minimum Capital Ratios

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its capital regulation in 12 CFR part 3. The amendments (1) standardize the definition of capital in 12 CFR 3.2 to make it consistent with the definition of capital used in the OCC's risk-based capital guidelines, (2) eliminate the existing definitions of primary and secondary capital, replacing them with Tier 1 and Tier 2 capital, (3) establish a new minimum leverage ratio of 3.0 percent Tier 1 capital-to-total assets for the highest rated banks with an additional cushion of 100–200 basis points for all other banks, and (4) change the minimum capital ratios in 12 CFR 3.6 to reflect the new risk-based capital ratio and leverage ratio requirements. The OCC also is making certain technical amendments to Interpretive Ruling 3.100. In addition, the OCC is making a number of conforming amendments to minimize the repetition of definitions and terms in part 3 and appendix A. The new leverage ratio, which operates in tandem with the OCC's risk-based capital guidelines, requires a minimum level of capital-to-total assets, thereby placing a limit on the amount of leverage a national bank can undertake. The OCC's minimum leverage ratio requirement is the same as the requirement that has been adopted by the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Kelly or Donna E. Duncan, National Bank Examiners, Office of the Chief National Bank Examiner, (202) 447–1164; Mark D. Winer, Associate Director, Economic and Policy Analysis Division, (20) 447–1924; C. Stewart Goddin, Senior International Economic Advisor, Multinational and Regional Bank Analysis, (202) 447–1747; or Robert J. Roth, Attorney, Legal Advisory Services Division, (202) 447–1883, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

This final rule is an outgrowth of the OCC's development and implementation of the risk-based capital guidelines. The OCC's risk-based capital guidelines were published on January 27, 1989 (54 FR 4168), and become effective for all national banks on December 31, 1990. As discussed in the notice of proposed rulemaking (NPRM) published on November 3, 1989 (54 FR 46394), the OCC, during the development of the risk-based capital guidelines, contemplated retaining some form of minimum capital-to-total assets requirement (leverage ratio) that would work in tandem with the risk-based capital guidelines. The new leverage ratio uses a definition of capital consistent with that of the risk-based capital guidelines and, when combined with the guidelines, replaces the existing minimum capital requirements found in 12 CFR part 3.

The OCC is committed to risk-based capital as the primary determinant of capital adequacy. The risk-based capital standard is designed principally as a measure of credit risk. However, even banks with very little or no credit risk need to maintain capital to protect against losses from other risks (*e.g.*, interest rate risk, operational risk, asset concentrations, etc.). The purpose of the leverage ratio is to ensure that even banks that invest exclusively in low risk-weighted assets still have to maintain a certain level of core capital. It is based on the principle that any bank, no matter how minimal its risk, needs to maintain some level of equity capital to protect against unforeseen and extraordinary events. Thus, for banks with low risk-weighted assets, the leverage ratio may increase the required minimum level of Tier 1 capital. Because of the tandem nature of the capital requirements, the leverage ratio never permits a bank to lower its capital level below the risk-based capital requirements.

To implement this new leverage ratio, the OCC is changing the definitions of capital in 12 CFR part 3 to make them identical to the risk-based capital guidelines. The existing minimum capital ratios found in § 3.6 are replaced by the minimum risk-based capital and leverage ratios. The OCC believes that these changes to the definition of capital, along with the implementation of the risk-based capital standard and the leverage ratio, represent the best approach for achieving adequate capitalization of the national banking system.

II. Summary of the Comments and Changes from the NPRM

Various modifications to the NPRM published on November 3, 1989 (54 FR 46394) were influenced, in part, by comments received during the comment period that ended on January 2, 1990. The OCC received 32 comment letters. The majority of the commenters were national banks or their holding companies. Various trade associations, state and federal regulatory agencies, Members of Congress, savings and loan associations, and other parties representing the financial services industry also commented.

The NPRM solicited comments on all aspects of the proposed amendments to 12 CFR part 3. In addition, the OCC specifically sought comment on (1) whether a minimum leverage ratio other than the proposed 3.0 percent Tier 1 capital-to-total assets should be adopted, and (2) whether the OCC should adjust the definition of capital and surplus in order to have a consistent regulatory definition of capital.

The commenters discussed various aspects of the proposal as well as issues specifically targeted for comment. The OCC has incorporated a number of commenter suggestions into the final rule. In addition, the OCC has adjusted the treatment of the allowance for loan and lease losses (ALLL) in the calculation of the leverage ratio. Issues raised by the commenters and changes made in the proposed rule are discussed below.

A. Appropriateness of the Proposed 3.0% Leverage Ratio

The OCC specifically requested comment on whether the proposed minimum leverage ratio of 3.0 percent Tier 1 capital-to-total assets or a different minimum leverage ratio would be more effective in achieving capital adequacy. The OCC received numerous responses on this issue. Many commenters favored the proposed leverage ratio. Some commenters advocated a higher minimum ratio, or a compromise involving a supplementary Tier 2 capital requirement. Many of the commenters advocating higher minimum leverage ratios perceived the 3.0 percent leverage ratio as a weakening of bank capital standards.

The OCC believes that the new definition of capital and the implementation of the risk-based capital standard ensure that the new minimum leverage ratio does not result in a weakening of bank capital standards. By incorporating the risk-based capital definition of Tier 1 capital, the new minimum leverage ratio emphasizes equity or "core" capital. This change eliminates a number of items that formerly were included in primary capital, such as the ALLL, cumulative perpetual preferred stock, and mandatory convertible debt.

In response to the request for comment on whether an alternative minimum capital ratio should be adopted, one commenter suggested linking the proposed leverge ratio to an institution's CAMEL rating. The commenter felt the CAMEL rating represents a quantitative standard for determining which banks could operate at the new minimum capital level. Two commenters, responding to a similar Federal Reserve proposal, opposed linking the minimum 3.0 percent leverage ratio to an institution's CAMEL rating. These commenters noted the subjective nature of the CAMEL rating and that capital is already one of the five major components of the CAMEL rating.

The OCC has carefully considered all of the comments concerning the appropriateness of the proposed leverage ratio. It has always been the OCC's intention that the proposed leverage ratio would represent only the absolute *minimum* level of capital an institution must maintain. The actual capital a bank must maintain would be at least as great as the amount that meets the risk-based capital standard *and* the leverage ratio. Furthermore, since the capital requirement represents minimum levels of capital, most banks will be expected to maintain more than the statutory minimums as has been the case under the current capital rules.

In response to comments received, we are providing more specific guidance on the applicability of the minimum leverage ratio for individual banks. The OCC has added clarifying language to the rule stating conditions under which banks operating with capital levels at the regulatory minimum will be considered adequately capitalized. The OCC's minimum leverage ratio requirement is the same as the requirement that has been adopted by the Board of Governors of the Federal Reserve System.

An institution operating at or near the regulatory minimum is expected to have well-diversified risks, including no undue interest rate risk exposure; excellent control systems; good earnings; high asset quality; high liquidity; and well managed on-balance sheet and off-balance sheet activities; and in general be considered a strong banking organization, rated composite 1 under the CAMEL rating system of banks.

As is currently the case, many banks will, of their own initiative, maintain capital levels in excess of that prescribed by regulation. At present, the vast majority of national banks operate with capital levels more than 100 basis points above the regulatory minimums. Thus, for all but the most highly rated banks meeting the conditions set forth above, the minimum Tier 1 leverage ratio is to be 3 percent plus an additional cushion of at least 100 to 200 basis points. In determining the amount of additional capital, the OCC will continue to assess both the quality of risk management systems and the level of overall risk in individual banks through the supervisory process on a case-by-case basis. The OCC's supervisory judgment on a bank's capital adequacy, both in terms of risk-based capital and the minimum leverage ratio, will continue to be based upon an assessment of the relevant factors present in each bank.

Capital standards must provide adequate protection against potential losses. The new minimum leverage ratio in combination with the risk-based capital standard provides an adequate capital backstop, while placing primary emphasis on the risks associated with a bank's on- and off-balance sheet assets. The OCC believes that the more restrictive definition of capital measured by the new minimum leverage ratio, working in conjunction with the risk-based capital guidelines, establishes a more precise measure of capital adequacy than the current standard, while ensuring that ample safeguards remain in place.

B. Consistent Definitions of Capital

In the NPRM the OCC requested comment on whether to adjust the definition of capital and surplus in order to have a consistent regulatory definition of capital for all purposes. Commenters differed considerably on this issue. While a number of commenters acknowledged that consistent definitions of capital for statutory and capital adequacy purposes would be preferable, they expressed concerns that such changes would prove disruptive at this juncture. Some commenters asserted that since the capital definitions are used for different purposes they need not be identical. For example, one commenter stated that while it may be appropriate to limit the use of the ALLL for capital adequacy purposes. Another commenter suggested that if the OCC adopts a uniform capital definition, it should use its authority to modify certain limits or requirements (*e.g.*, lending limits) to reflect the impact

of the more restrictive capital definitions.

At this time, the potentially disruptive effects of adjusting the definition of capital and surplus in § 3.100 outweigh the benefits of a uniform definition of capital. Thus, while the definition of capital in Part 3 has been changed to conform with the risk-based capital definition in appendix A, the definition of capital and surplus in § 3.100 remains unaffected.

To minimize the repetitive nature of the definitions of Tier 1 and Tier 2 capital as presented in the NPRM, the OCC is changing the format of part 3 by referencing the definitions of capital in appendix A rather than restating these identical definitions in § 3.2. While the leverage ratio incorporates the definition of Tier 1 capital from appendix A, the transitional rules in section 4 of appendix A do not apply to the definition of Tier 1 capital for leverage ratio purposes.

C. Treatment of the ALLL

Several commenters addressed the treatment of the ALLL in calculating the 3.0 percent leverage ratio. These commenters objected to adding the ALLL back to the average total assets figure derived from the Call Report when calculating the denominator. The commenters stated that since the ALLL is not included in Tier 1 capital (the numerator), it should be netted from the total assets figure used as the denominator. The commenters believe that the calculation would require a bank to hold capital against assets which have already been provided for by the ALLL, thereby resulting in double counting for capital adequacy purposes.

The OCC agrees with the commenters' evaluation of this issue. Accordingly, the final rule does not require that the period-end balance of the ALLL be added to the bank's average total assets to arrive at the total assets figure used as the denominator of the leverage ratio. However, intangible assets that have been deducted from Tier 1 capital still must be deducted from average total assets.

D. Treatment of Purchased Mortgage Servicing Rights (PMSR)

A number of commenters believe that the OCC should not treat PMSR as intangible assets. Moreover, the commenters opposed the current Tier 1 capital definition which limits intangibles, such as PMSR, which are not deducted from Tier 1 capital, to 25 percent of Tier 1 capital. The OCC understands the commenters' concerns regarding PMSR. The OCC intends to issue an advance notice of proposed rulemaking in the near future to address the treatment of intangible assets, including PMSR, held by national banks for capital adequacy purposes. In the meantime, however, in order to adopt a uniform definition for capital adequacy purposes, the risk-based capital guideline treatment of PMSR will be used in the leverage ratio definition of Tier 1 capital.

E. Technical Amendments to 12 CFR 3.100

Several commenters requested clarifications on the technical amendments to § 3.100 which governs the definition of capital and surplus for statutory purposes such as lending limits and transactions with affiliates. The commenters focused on whether the transitional rules formerly found in § 3.3 that grandfathered certain intangible assets and capital instruments in existence prior to the effective date of part 3, would remain applicable to capital calculations under § 3.100.

The OCC previously addressed the applicability of the transitional rules in § 3.3 to calculations involving § 3.100 (*See* OCC Interpretive Letter No. 466 (January 23, 1989), *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH ¶ 85,690.) As stated in the NPRM, the OCC did not intend the technical amendments to § 3.100 to have any effect on an institution's lending limit or other activities limited by statute or regulation to a percentage of "capital" and/or "surplus." The commenters were concerned that the proposed revision to § 3.100 implied that for statutory purposes capital and surplus is defined solely within the section, thereby eliminating an institution's ability to incorporate the grandfathering provisions found in the old § 3.3.

The OCC agrees that § 3.100 is unclear. The OCC intends that the prior transitional rules found in former § 3.3 remain applicable to calculations under § 3.100. To make this clear, the OCC is adding a new paragraph (g) to § 3.100 which incorporates the transitional rules (governing grandfathered intangibles and certain capital instruments) previously found in § 3.3. This ensures that the final amendments to part 3 do not adversely affect calculations of capital and surplus under § 3.100.

F. Conforming Amendments

To simplify the regulation, the OCC is incorporating both the risk-based capital guidelines and the leverage ratio into § 3.6. By incorporating the risk-based capital requirement in § 3.6, the risk-based capital standard is integrated into all of the substantive and procedural provisions of part 3. As a result, many of the technical amendments included in the NPRM are unnecessary. For example, a number of the technical amendments to part 3 involved adding the phrase "or Appendix A" wherever reference was made to the leverage ratio in § 3.6.

This final rule also eliminates duplicate definitions and terms found in the NPRM. For example, rather than restating the definitions of Tier 1 and Tier 2 capital, the OCC references the capital definitions contained in appendix A of part 3. This eliminates the need to update the regulation in two places if technical or other amendments to the capital definitions occur. The OCC's reference to appendix A also limits the possibility that the slightly varied word choice found in proposed § 3.2 could be interpreted as differing from the definitions found in appendix A. Finally, the OCC is eliminating obsolete references to primrary and secondary capital and, as in the case of §3.100, replacing these terms with equivalent capital components. Thus, the final rule offers an integrated capital regulation with minimum duplication of terms.

G. Transition Period

The final leverage ratio becomes effective concurrently with the risk-based capital guidelines on December 31, 1990. Until that time, the current definitions of primary and total capital part 3 remain in effect.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that these changes will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required. The OCC does not anticipate that a significant number of small entities will have difficulty in meeting the revised capital standards.

Executive Order 12291

The OCC has determined that this proposal does not constitute a major rule within the meaning of Executive Order 12291. Accordingly, a Regulatory Impact Analysis will not be required on the grounds that this revision (1) would not have an annual effect on the economy of $100 million or more, (2) would not result in a major increase in the cost of bank operations or governmental supervision, and (3) would not have a significant adverse effect on competition (foreign or domestic), employment, investment, productivity,

or innovation. Because banks are required to maintain minimum capital levels under existing regulations, it is not anticipated that maintaining the minimum leverage ratio will prove burdensome to national banks.

List of Subjects in 12 CFR Part 3

Banking, Capital.

Authority and Issuance

For the reasons set forth in the preamble, title 12, chapter I, part 3 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 3 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a, 161, 1818; and 12 U.S.C. 3907 and 3909.

2. Section 3.2 is revised to read as follows:

§ 3.2 Definitions.

For the purposes of this part:

(a) *Adjusted total assets* means the average total assets figure required to be computed for and stated in a bank's most recent quarterly "Consolidated Report of Condition and Income" (Call Report), minus end-of-quarter intangible assets that are deducted from Tier 1 capital. The OCC reserves the right to require a bank to compute and maintain its capital ratios on the basis of actual, rather than average, total assets when necessary to carry out the purposes of this regulation.

(b) *Bank* means a national banking association or District of Columbia Bank.

(c) *Tier 1 capital* means "Tier 1 capital" as determined according to Section 2 of Appendix A of this part, including the deductions described therein.

(d) *Tier 2 capital* means "Tier 2 capital" as determined according to Section 2 of Appendix A of this part, including the limitations described therein.

(e) *Total capital* means "Total capital" as determined according to Section 1(25) and Section 2 of Appendix A of this part, including the deductions described therein.

3. Section 3.3 is revised to read as follows:

§ 3.3 Transitional rules.

Intangible assets, other than mortgage servicing rights, purchased prior to April 15, 1985, and accounted for in accordance with the instruction of the OCC, need not be deducted from Tier 1 capital until December 31, 1992. However, when combined with other qualifying intangible assets, these intangibles may not exceed 25 percent of Tier 1 capital. After December 31, 1992, only those intangible assets that meet the criteria contained in section 2(c)(2) of appendix A will not be deducted from Tier 1 capital.

4. Section 3.4 is revised to read as follows:

§ 3.4 Reservation of authority.

Notwithstanding the definitions of *Tier 1 capital* and *Tier 2 capital* in § 3.2 (c) and (d), the OCC may find that a newly developed or modified capital instrument constitutes *Tier 1 capital* or *Tier 2 capital*, and may permit one or more banks to include all or a portion of funds obtained through such capital instruments as Tier 1 or Tier 2 capital, permanently or on a temporary basis, for the purposes of compliance with this part or for other purposes. Similarly, the OCC may fined that a particular intangible asset need not be deducted from Tier 1 or Tier 2 capital. Conversely, the OCC may find that a particular intangible asset or Tier 1 or Tier 2 capital component has characteristics or terms that diminish its contribution to a bank's ability to absorb losses, and may require the deduction of this component from the computation of Tier 1 or Tier 2 capital.

5. Section 2.6 is revised to read as follows:

§ 3.6 Minimum capital ratios.

(a) *Risk-weighted assets ratio.* All national banks must have and maintain the minimum ratios of Tier 1 and total capital to risk-weighted assets as set forth in appendix A of this part.

(b) *Total assets leverage ratio.* All national banks must have and maintain Tier 1 capital in an amount equal to at least 3.0 percent of adjusted total assets.

(c) *Additional leverage ratio requirements.* An institution operating at or near the level in subsection (b) above is expected to have well-diversified risks, including no undue interest rate risk exposure; excellent control systems; good earnings; high asset quality; high liquidity; and well managed on- and off-balance sheet activities; and in general be considered a strong banking organization, rated composite 1 under the CAMEL rating system of banks. For all but the most highly-rated banks meeting the conditions set forth above, the minimum Tier 1 leverage ratio is to be 3 percent plus an additional cushion of at least 100 to 200 basis points. In all cases, banking institutions should hold capital commensurate with the level and nature of all risks.

6. Section 3.7 is revised to read as follows:

§ 3.7 Plan to achieve minimum capital ratios.

Effective December 31, 1990, any bank having capital ratios less than the minimums required under § 3.6 (a) and (b) shall, within 60 days, submit to the OCC a plan describing the means and schedule by which the bank shall achieve the applicable minimum capital ratios. The plan may be considered acceptable unless the bank is notified to the contrary by the OCC. A bank in compliance with an acceptable plan to achieve the applicable minimum capital ratios will not be deemed to be in violation of § 3.6.

7. Section 3.9 is revised to read as follows:

§ 3.9 Purpose and scope.

The rules and procedures specified in this subpart are applicable to a proceeding to establish required minimum capital ratios that would otherwise be applicable to a bank under § 3.6. The OCC is authorized under 12 U.S.C. 3907 (a)(2) to establish such minimum capital requirements for a bank as the OCC, in its discretion, deems appropriate in light of the particular circumstances at that bank. Proceedings under this subpart also may be initiated to require a bank having capital ratios above those set forth in § 3.6, or other legal authority to continue to maintain those higher ratios.

8. In § 3.10 the introductory text and paragraph (d) are revised, paragraphs (e) and (f) are redesignated as paragraphs (g) and (h) respectively, and new paragraphs (e) and (f) are added. As revised, § 3.10 reads as follows:

§ 3.10 Applicability.

The OCC may require higher minimum capital ratios for an individual bank in view of its circumstances. For example, higher capital ratios may be appropriate for:

* * * * *

(d) A bank with significant exposure due to interest rate, fiduciary, operational, credit concentration, or similar risks;

(e) A bank exposed to a high degree of asset depreciation, or a low level of liquid assets in relation to short term liabilities;

(f) A bank exposed to a high volume or particularly severe problem loans;

* * * * *

9. In § 3.12, paragraph (a) is revised to read as follows:

§ 3.12 Procedures.

(a) Notice. When the OCC determines that minimum capital ratios above those set forth in § 3.6 or other legal authority

are necessary or appropriate for a particular bank, the OCC will notify the bank in writing of the proposed minimum capital ratios and the date by which they should be reached (if applicable) and will provide an explanation of why the ratios proposed are considered necessary or appropriate for the bank.

* * * * *

10. Section 3.14 is revised to read as follows:

§ 3.14 Remedies.

A bank that does not have or maintain the minimum capital ratios applicable to it, whether required in subpart B of this part, in a decision pursuant to subpart C of this part, in a written agreement or temporary or final order under 12 U.S.C. 1818 (b) or (c), or in a condition for approval of an application, or a bank that has failed to submit or comply with an acceptable plan to attain those ratios, will be subject to such administrative action or sanctions as the OCC considers appropriate. These sanctions may include the issuance of a Directive pursuant to subpart E of this part or other enforcement action, assessment of civil money penalties, and/or the denial, conditioning, or revocation of applications. A national bank's failure to achieve or maintain minimum capital ratios in § 3.6 (a) or (b) may also be the basis for an action by the Federal Deposit Insurance Corporation to terminate federal deposit insurance. See 12 CFR 325.4.

11. In § 3.100, new introductory text is inserted immediately following the title and preceding paragraph (a), paragraphs (e)(5) and (f)(1) introductory text, (f) (2) and (3) are revised, and a new paragraph (g) is added as follows:

§ 3.100 Capital and surplus.

For purposes of determining statutory limits that are based on the amount of bank's "capital" and/or "surplus," the provisons of this section are to be used, rather than the definitions of capital contained in § 3.2.

* * * * *

(e) * * *

(5) "Mandatory convertible debt" means subordinated debt instruments which unqualifiedly require the issuer to exchange either common or perpetual preferred stock for such instruments by a date at or before the maturity of the instrument. The maturity of these instruments must be 12 years or less. In addition, the instrument must meet the requirements of paragraph (f)(1)(i) through (v) of this section for subordinated notes and debentures or other requirements published by the OCC.

* * * * *

(f) * * *

(1) *Requirements.* Issues of limited life preferred stock and subordinated notes and debentures (except mandatory convertible debt) must have original weighted average maturities of at least five (5) years to be included in the definition of "surplus." In addition, a subordinated note or debenture must also:

* * * * *

(2) *Restrictions.* The total amount of mandatory convertible debt not included in paragraph (c)(3) of this section, limited life preferred stock, and subordinated notes and debentures considered as surplus is limited to 50 percent of the sum of paragraphs (a) and (c) (1), (2) and (3) of this section.

(3) *Reservation of authority.* The OCC expressly reserves the authority to waive the requirements and restrictions set forth in paragraphs (f) (1) and (2) of this section, in order to allow the inclusion of other limited life preferred stock, mandatory convertible notes and subordinated notes and debentures in the capital base of any national bank for capital adequacy purposes or for purposes of determining statutory limits. The OCC further expressly reserves the authority to impose more stringent conditions than those set forth in paragraphs (f) (1) and (2) of this section to exclude any component of Tier 1 or Tier 2 capital, in whole or in part, as part of a national bank's capital and surplus for any purpose.

(g) *Transitional rules.* (1) Equity commitment notes approved by the OCC as capital and issued prior to April 15, 1985, may continue to be included in paragraph (c)(3) of this section. All other instruments approved by the OCC as capital and issued prior to April 15, 1985, are to be included in paragraph (c)(4) of this section.

(2) Intangible assets (other than mortgage servicing rights) purchased prior to April 15, 1985, and accounted for in accordance with OCC instructions, may continue to be included as surplus up to 25% of the sum of paragraphs (a) and (c)(1) of this section.

Dated: September 14, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90-22488 Filed 9-20-90; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL TRADE COMMISSION

16 CFR Part 4

Privacy Act; New Exempt System of Records; Correction

AGENCY: Federal Trade Commission (FTC).

ACTION: Correction.

SUMMARY: This document corrects the section heading of a Commission document previously published in the **Federal Register** on Thursday, September 13, 1990.

DATES: The correction is effective September 21, 1990.

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, Office of the General Counsel (OGS), FTC, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580. (202) 326-2447.

SUPPLEMENTARY INFORMATION: In FR Doc. 90-21581, appearing in the **Federal Register** issue for Thursday, September 13, 1990, 55 FR 37700, in the third column, the section heading, "§ 4.13 Specific exemptions", should read as follows:

§ 4.13 Privacy Act rules.

Donald S. Clark

Secretary.

[FR Doc. 90-22429 Filed 9-20-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[SF-90-12]

COTP San Francisco Bay Regulations; Security Zone Regulations; Naval Weapons Station, Concord, CA

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone for waterside approaches to Naval Weapons Station, Concord. The zone is needed to safeguard vessels and waterfront facilities against destruction from sabotage or other subversion acts, accidents, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulations becomes effective on 07 September 1990. It terminates on 31 December 1990 unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LCDR R.E. Tinker at 415–437–3073.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction to vessels, equipment and dock areas.

Drafting Information

The drafters of this regulation are LCDR R.E. Tinker, project officer for the Captain of the Port, and LCDR J.J. JASKOT, project attorney, Eleventh Coast Guard District Legal office.

Discussion of Regulation

The incidents requiring this regulation are to protect vessels undergoing loading operations in support of Operation Desert Shield from clandestine acts perpetrated by persons not supporting U.S. actions. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water).

Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart D of part 165 of title 33, Code of Federal Regulations, is amended as follows;

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1 (g), 6.04–1, 6.04–6 and 33 CFR 165.5.

2. The new § 165.T1177 is added to read as follows:

§ 165.T1177 Security Zone: Naval Weapons Station Concord, CA.

(a) *Location.* A Security Zone will be established in the waters of Suisun Bay in the vicinity of the Naval Weapons Station, Concord. The Security Zone will include waters surrounding the dock spaces at the Naval Weapons Station within the boundary starting at the opening to Hastings Slough, (38 03.1N, 122 03.4W) and extending 1600 years on a bearing of 010 T to Buoy #14 (F1 R 4s) then extending in an easterly line following the south side of the Preston Pt. Reach Channel, the Roe Island Channel, the Port Chicago Reach Channel, and the West Reach Channel to Buoy #20 (R F1 R 4s), then extending to shore at a bearing of 170 T for approximately 100 yards to a point on shore approximately 500 yards east of Middle Point Light, at position (38 03.2N 121 59.25W).

(b) *Effective Date.* This regulation becomes effective on 07 September 1990. It terminates on 31 December 1990 unless sooner terminated by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulation in 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

Dated: September 7, 1990.

T.H. Robinson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 90–22136 Filed 9–20–90; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6889]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations or participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Ohio: Rogers, village of, Columbiana County	390645	Aug. 8, 1990	3-22-74
Louisiana: Lincoln Parish, unincorporated areas	220366	Aug. 9, 1990	11-29-77
Iowa: Solon, city of, Johnson County	190432	Aug. 16, 1990	8-13-76
Texas: Mertens, city of, Hill County	480862	Aug. 16, 1990	11-5-76
Iowa:			
Pilot Mound, city of, Boone County	190326	Aug. 28, 1990	11-5-76
Wilton, city of, Muscatine County	190686	Aug. 30, 1990	10-22-76
New Eligibles—Regular Program			
Wisconsin: Allouez, village of, Brown County [1]	550612	July 27, 1990	2-19-82
Ohio: Senecaville, village of, Guernsey County	390858	Sept. 15, 1989	2-17-89
Reinstatements—Regular Program			
Mississippi: Clay County, unincorporated areas	280036	Jan. 19, 1978, Emerg.; July 16, 1990, Reg.; July 16, 1990, Susp.; Aug. 1, 1990, Rein.	7-16-90
West Virginia: Poca, town of, Putnam County	540168	Apr. 17, 1975, Emerg.; Dec. 18, 1985, Reg.; July 3 1990, Susp.; Aug. 1, 1990, Rein.	12-18-85
Minnesota: Pennington County, unincorporated areas	270651	June 25, 1974, Emerg.; May 3, 1990, Reg.; May 3, 1990, Susp.; Aug. 6, 1990, Rein.	5-3-90
Mississippi: Wilkinson County, unincorporated areas	280202	Feb. 15, 1974, Emerg.; July 16, 1990, Reg.; July 16, 1990, Susp.; Aug. 20, 1990, Rein.	7-16-90
Texas:			
Marfa, city of, Presidio County	481493	Dec. 5, 1977, Emerg.; May 26, 1978, Reg.; Sept. 2, 1988, Susp.; Aug. 20, 1990, Rein.	5-26-78
Parker County, unincorporated areas [2]	480520	Jan. 22, 1979, Emerg.; May 11, 1982, With.; Aug. 16, 1990, Rein.	12-27-77
Pennsylvania:			
Patterson, township of, Beaver County	422326	Nov. 28, 1975, Emerg.; Dec. 1, 1987, Reg.; Dec. 1, 1987, Susp.; Aug. 21, 1990, Rein.	12-1-87
Steuben, township of, Crawford County	421571	Apr. 7, 1975, Emerg.; July 16, 1990, Reg.; July 16, 1990, Susp.; Aug. 21, 1990, Rein.	7-16-90
West Virginia:			
Pullman, town of, Ritchie County	540263	Sept. 22, 1977, Emerg.; Sept. 10, 1984, Reg.; July 3, 1990, Susp.; Aug. 28, 1990, Rein.	9-10-84
Falling Spring Corporation (also known as the Town of Renick), Greenbrier County.	540243	Oct. 6, 1975, Emerg.; Sept. 24, 1984, Reg.; July 3, 1990, Susp.; Aug. 28, 1990, Rein.	9-24-84
Rupert, town of, Greenbrier County	540044	Jan. 24, 1975, Emerg.; Aug. 24, 1984, Reg.; July 3, 1990, Susp.; Aug. 28, 1990, Rein.	8-24-84
New Mexico: Zuni, Pueblo of, McKinley County	350143	Dec. 21, 1978, Emerg.; Sept. 4, 1987, Reg.; Sept. 4, 1987, Susp.; Aug. 28, 1990, Rein.	9-4-87
South Dakota: Lawrence County, unincorporated areas	460094	Apr. 30, 1974, Emerg.; May 17, 1990, Reg.; May 17, 1990, Susp.; Aug. 28, 1990, Rein.	5-17-90
Missouri:			
Bollinger County, unincorporated areas	290787	June 1, 1984, Emerg.; Aug. 15, 1990, Reg.; Aug. 15, 1990, Susp.; Aug. 30, 1990, Rein.	8-15-90
Zalma, village of, Bollinger County	290033	Apr. 22, 1983, Emerg.; Sept. 1, 1986, Reg.; Aug. 15, 1990, Susp.; Aug. 30, 1990, Rein.	8-15-90
Region I—Regular Program Conversions			
Massachusetts: Tolland, town of, Worcester County	250345	Aug. 2, 1990, suspension withdrawn	8-2-90
Maine:			
Mount Desert, town of, Hancock County	230287	.....do	8-2-90
South Portland, Cumberland County	230053	.....do	8-2-90
Region II			
New York: Poughkeepsie, town of, Dutchess County	361142	.....do	8-2-90
Region III			
Pennsylvania:			
Black, township of, Somerset County	422510	.....do	8-2-90
Dale, borough of, Cambria County	421428	.....do	8-2-90
East Huntingdon, township of, Westmoreland County	422188	.....do	8-2-90
East Wheatfield, township of, Indiana County	421716	.....do	8-2-90
Fairfield, township of, Crawford County	421567	.....do	8-2-90
Greenfield, township of, Erie County	421365	.....do	8-2-90
Hayfield, township of, Crawford County	421227	.....do	8-2-90
Region V			
Ohio: Defiance County, unincorporated areas	390143	.....do	8-2-90
Region VI			
Texas: Nolan County, unincorporated areas	481240	.....do	8-2-90
Region III			
Pennsylvania:			
Delmar, township of, Tioga County	421177	Aug. 15, 1990, suspension withdrawn	8-15-90
Lorain, borough of, Cambria County	420232	.....do	8-15-90
New Bethlehem, borough of, Clarion County	420296	.....do	8-15-90
Oil Creek, township of, Crawford County	421568	.....do	8-15-90

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Penn, township of, Lycoming County	421848	do	8-15-90
Philipsburg, borough of, Centre County	420267	do	8-15-90
South Huntingdon, township of, Westmoreland County	422194	do	8-15-90
Sugar Grove, borough of, Warren County	420842	do	8-15-90
Youngsville, borough of, Warren County	420844	do	8-15-90
West Virginia: Bruceton Mills, town of, Preston County	540162	do	8-15-90
Region IV			
Georgia:			
Gilmer County, unincorporated areas	130317	do	8-15-90
Hawkinsville, city of, Pulaski County	130155	do	8-15-90
Murray County, unincorporated areas	130366	do	8-15-90
North Carolina: Alamance, village of, Alamance County	370457	do	8-15-90
Region V			
Wisconsin: Clark County, unincorporated areas	550048	do	8-15-90
Region VI			
Texas: Del Rio, city of, Val Verde County	420631	do	8-15-90
Region VII			
Iowa: Correctionville, city of, Woodbury County	190288	do	8-15-90
Missouri: Marble Hill, city of, Bollinger County	290032	do	8-15-90
Region IX			
Nevada: Winnemucca, city of, Humboldt County	220012	do	8-15-90
Region X			
Idaho:			
Lemhi County, unincorporated areas	160092	do	8-15-90
St. Anthony, city of, Fremont County	160062	do	8-15-90

Code for reading third column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.
[1] The Village of Allouez has adopted Brown County's FIRM dated 2-19-82 for floodplain management and insurance purposes.
[2] Parker County is being reinstated into the Emergency Program.

Issued: September 17, 1990.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-22410 Filed 9-20-90; 8:45 am]

BILLING CODE 6718-21-M

44 CFR Part 64

[Docket No. FEMA 6890]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATE: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Insurance Plaza, 500 C Street SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 *et seq.*). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the Federal Register. In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5. U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region II				
New York:				
Hancock, town of, Delaware County	360201	June 26, 1975, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Sept. 28, 1990.
Hancock, village of, Delaware County	360202	June 19, 1975, Emerg; Dec. 18, 1982, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region III				
Pennsylvania: Elkland, borough of, Tioga County	420818	April 18, 1973, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region IV				
Kentucky: Madison County, Unincorporated Areas	210342	Sept. 19, 1989, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
North Carolina:				
Avery County, Unincorporated Areas	370010	Feb. 12, 1976, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Creedmoor, city of, Granville County	370107	Mar. 21, 1975, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Oxford, city of, Granville County	370108	July 24, 1975, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Tennessee: Greenback, city of, Loudon County	470303	Apr. 23, 1986, Emerg; Sept. 30, 1988, Reg; Sept. 28, 1990, Susp.	9-30-88	Sept. 30, 1988.
Region V				
Indiana:				
Allen County, Unincorporated Areas	180302	Feb. 14, 1974, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Sept. 28, 1990.
Ft. Wayne, city of, Allen County	180003	May 24, 1974, Emerg; Apr. 3, 1985, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Huntertown, town of, Allen County	180005	July 29, 1975, Emerg; Nov. 2, 1983, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
New Haven, city of, Allen County	180004	Jan. 30, 1975, Emerg; July 18, 1983, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Michigan:				
Holland, city of, Allegan and Ottawa Counties	260006	June 21, 1973, Emerg; Nov. 15, 1978, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Holland, township of, Ottawa County	260492	Sept. 7, 1976, Emerg; Dec. 1, 1983, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Ohio: Lowellville, village of, Mahoning County	390620	July 9, 1975, Emerg; Sept. 3, 1979, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Wisconsin:				
Cornell, city of, Chippewa County	550045	Sept. 25, 1974, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Langlade County, Unincorporated Areas	550576	Apr. 14, 1975, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region VII				
Kansas:				
Allen County, Unincorporated Areas	200568	June 4, 1979, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Hutchinson, city of, Reno County	200283	Jan. 19, 1973, Emerg; Sept. 5, 1978, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Iola, city of, Allen County	200003	Apr. 1, 1975, Emerg; Sept. 15, 1978, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Liberal, city of, Seward County	200330	Oct. 29, 1974, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Pretty Prairie, city of, Reno County	200549	June 10, 1977, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Reno County, Unincorporated Areas	200567	Sept. 20, 1978, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
South Hutchinson, city of, Reno County	200530	Aug. 7, 1975, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region VIII				
Colorado: Rangely, town of, Rio Blanco County	080152	May 30, 1973, Emerg; Dec. 1, 1977, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Utah: Morgan County, Unincorporated Areas	490092	June 25, 1975, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region IX				
Arizona:				
Apache County, Unincorporated Areas	040001	Apr. 11, 1975, Emerg; July 5, 1982, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Flagstaff, city of, Coconino County	040020	Jan. 15, 1975, Emerg; Jan. 19, 1983, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Springerville, town of, Apache County	040011	Jan. 16, 1974, Emerg; June 25, 1976, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
California:				
Kern County, Unincorporated Areas	060075	Sept. 10, 1971, Emerg; Sept. 29, 1986, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Sebastopol, city of, Sonoma County	060382	Dec. 13, 1974, Emerg; June 18, 1980, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Sutter Creek, city of, Amador County	060458	Apr. 11, 1975, Emerg; Sept. 24, 1984, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Ventura County, Unincorporated Areas	060413	Sept. 18, 1970, Emerg; Oct. 31, 1985, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region X				
Alaska: Juneau, city and borough of, Juneau Division	020009	May 22, 1970, Emerg; Feb. 4, 1981, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Idaho: Middleton, city of, Canyon County	160037	May 22, 1975, Emerg; Sept. 3, 1980, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Oregon: Gresham, city of, Multnomah County	410181	Jan. 21, 1974, Emerg; July 16, 1979, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Washington:				
Wahkiakum County, Unincorporated Areas	530193	May 14, 1974, Emerg; Sept. 28, 1990, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Whatcom County, Unincorporated Areas	530198	Feb. 18, 1972, Emerg; Sept. 30, 1977, Reg; Sept. 28, 1990, Susp.	9-28-90	Do.
Region VIII—Minimal Conversions				
Colorado: Marble, town of, Gunnison County	080197	Jan. 16, 1976, Emerg; Oct. 1, 1990, Reg; Oct. 1, 1990, Susp.	10-1-90	Oct. 1, 1990.
Region X				
Washington: Adams County, Unincorporated Areas	530001	Feb. 26, 1975, Emerg; Oct. 1, 1990, Reg; Oct. 1, 1990, Susp.	10-1-90	Do.

Code for reading third column: Emerg—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: September 17, 1990.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-22411 Filed 9-20-90; 8:45 am]

BILLING CODE 6718-21-M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1532 and 1552

[FRL 3815-3]

Acquisition Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a final rule on contractor requirements for prompt payment. The rule finalizes, with changes, interim EPA Acquisition Regulation (EPAAR) coverage in response to the Prompt Payment Act Amendments of 1988. This rule affects the preparation and distribution of contractor invoices. Under his rule, EPA contractors will be required to include EPA accounting information on payment requests, to have payment requests and progress reports cover the same time period, and to submit copies of payment requests to EPA project officers and contracting officers. Two alternate clauses have been added to the previously published interim coverage to provide more flexibility in adapting accounting information required to be shown by contractors on invoices.

EFFECTIVE DATE: This regulation is effective September 21, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph Nemargut, Jr. at (202) 382-5019 (FTS 382-5019).

SUPPLEMENTARY INFORMATION:

A. Background

This regulation was published as an interim rule on October 4, 1989 with public comments due on or before December 4, 1989. Three comments were

received. These comments and our response are summarized below.

All three commenters believe that under this rule EPA is relinquishing its responsibility to determine the funding sources for its contract actions. The EPA does not agree. Under this rule, all funding decisions will continue to be made by the Agency with all accounting information necessary for contractors to include on payment requests clearly identified on the applicable contract documents. Contractors will merely be asked to reflect this information provided by EPA on their requests for payment. However, to provide greater flexibility, two alternate clauses have been developed. One alternate will reduce the amount of EPA accounting information required to be shown on contractor invoices. The second alternate will eliminate the need for contractors to include any EPA accounting information on invoices. The Contracting Officer will determine which version of the clause should be used based on specific contract needs.

One of the commenters suggested that the requirement for contractors to include EPA accounting information on payment requests may result in inadvertent errors by contractors and subsequently delay payment. It is not the intent of EPA to delay payment to contractors. Rather, the EPA anticipates that a greater percentage of payments will be made within the Prompt Payment Act guidelines. Although some invoices may be returned to contractors for correction because of these new requirements, this should not be the case once contractors become familiar with these requirements.

Another commenter requested that training the detailed guidance to contractors on EPA's internal accounting procedures be provided. The EPA believes such training is unnecessary since under this rule we merely request contractors to reflect information on invoices that is already shown on contract actions. A knowledge of EPA's internal accounting procedures is unnecessary. Contracting Officers will assist contractors in resolving any difficulties they encounter in preparing invoices.

Each of the commenters indicated the proposed changes will result in increased costs that will be passed on to the Government either through higher direct or indirect charges to EPA contracts. Although there may be some expenses necessary for contractors to modify their invoicing to accommodate the new requirements, the EPA anticipates these expenses to be minimal and more than offset by more efficient processing of payments.

One commenter stated there is no benefit to either the Government or the contractor in reconciling cumulative amounts on monthly progress reports to the aggregate amounts on contract financing payment requests. Additionally, the commenter felt such a requirement would delay submission of the progress reports thereby diminishing their usefulness. The EPA does not agree. EPA bases its approval of contract financing payments on sufficient progress being made on the project for which the payments are requested. To ensure payment is warranted, it is essential that EPA officials be provided with information on the status of a project relative to a specific payment request. Since there should be few if any differences between cumulative amounts claimed on progress reports versus aggregate amounts on the contract financing requests, the required reconciliation should not significantly delay submission of progress reports.

B. Executive Order 12291

OMB Bulletin No. 85–7, dated December 14, 1984, establishes the requirements for Office of Management and Budget (OMB) review of agency procurement regulations. This regulation does not fall within any of the categories cited in this Bulletin requiring OMB review.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not propose any information collection requirements, which would require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Regulatory Flexibility Act

The EPA certifies this rule does not exert a significant economic impact on a substantial number of small entities. The change in invoice distribution requires only one additional copy of an invoice be provided to EPA. The requirement for contractors to have the same period of performance for both invoices and progress reports reflects existing practices for many contractors and should require only minimal change for small entities not already in compliance. The requirement for contractors to include accounting information on invoices requires contractors to include information clearly identified on contracts, work assignments, or delivery orders. This should require only minimal changes to invoicing procedures for small entities.

List of Subjects in 48 CFR Parts 1532 and 1552

Government procurement, Contract financing, Solicitation provisions, and contract clauses.

Accordingly, the interim rule amending 48 CFR parts 1532 and 1552 published at 54 FR 40876–40877 on October 4, 1989, is adopted as a final rule with the following changes:

1. The authority citation for parts 1532 and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

PART 1532—[AMENDED]

2. Section 1532.908 is revised to read as follows:

1532.908 Contract clauses.

The clause or alternates at 1552.232–70 are required in all acquisitions except those within the small purchase limitation. The clause at 1552.232–70 shall be used in solicitations and contracts when the EPA accounting information to be shown on contractor invoices includes the document control number and account number. Alternate I shall be used in solicitations and contracts when the EPA accounting information to be shown on contractor invoices includes only the account number. Alternate II shall be used when no EPA accounting information is to be shown on contractor invoices. The Contracting Officer shall work with the EPA office initiating the procurement to determine the appropriate clause to be used.

PART 1552—[AMENDED]

3. Section 1552.232–70 is amended by adding Alternates I and II to read as follows:

1552.232–70 Submission of invoices.

* * * * *

Alternate I (SEP 1990). As prescribed in 1532.908, substitute the following paragraph for (d) in the clause:

(d) Invoices must clearly indicate the period of performance for which payment is requested and include EPA accounting information necessary to process payments. Separate invoices are required for charges applicable to the basic contract and each option period. If contract work is ordered through individual work assignments or delivery orders, invoices must show current and cumulative charges by work assignment or delivery order number and EPA accounting information. When contracts, work assignments or delivery orders contain multiple lines of accounting

data, charges that cannot be assigned to a single line of accounting information should be allocated based on the percentage of total dollars, unless otherwise specified. Required accounting information includes the account number shown in block 14 of the SF 26, block 21 of the SF 33, block 12 of the SF 30, or on the individual work assignment or delivery order.

Alternate II (SEP 1990). As prescribed in 1532.908, substitute the following paragraph for (d) in the clause:

(d) Invoices must clearly indicate the period of performance for which payment is requested. Separate invoices are required for charges applicable to the basic contract and each option period. If contract work is ordered through individual work assignments or delivery orders, invoices must show current and cumulative charges by work assignment or delivery order number.

Dated: September 13, 1990.

John C. Chamberlin,

Director, Office of Administration.

[FR Doc. 90-22167 Filed 9-20-90; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

[NASA FAR Supplement Directive 89-2]

RIN 2700-AA91

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement; Correction

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule, correction.

SUMMARY: NASA is correcting errors in an amendment to part 1852 which reflected a miscellaneous change to the NASA FAR Supplement (NFS) and which appeared in the **Federal Register** on December 29, 1989 (54 FR 53621).

FOR FURTHER INFORMATION CONTACT: David K. Beck, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, telephone: (202) 453-8250.

SUPPLEMENTARY INFORMATION: NASA has published miscellaneous amendments to the NASA FAR Supplement. One amendment to part 1852 is in error which is discussed briefly below and is corrected by this notice.

Dated: September 17, 1990.

S.J. Evans,

Assistant Administrator for Procurement.

The following corrections are made in the NASA FAR Supplement Directive 89-2, part 1852, published in the **Federal Register** on December 29, 1989 (54 FR 53621).

1852.250-72 [Corrected]

1. On page 53632, first column, line 3, change the citation "1852.403-3(b)" to "1850.403-3(b)".

2. On page 53632, first column, line 4, change the citation "1852.403-370(b)" to "1850.403-370(b)".

[FR Doc. 90-22466 Filed 9-20-90; 8:45 am]

BILLING CODE 7510-01-M

48 CFR Parts 1825 and 1852

[NASA FAR Supplement Directive 89-3]

RIN 2700-AA87 and 2700-AA92

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement; Correction

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule, correction.

SUMMARY: NASA is correcting errors in amendments to Parts 1825 and 1852 which reflected miscellaneous changes to the NASA FAR supplement (NFS) and which appeared in the **Federal Register** on April 2, 1990 (55 FR 12174).

FOR FURTHER INFORMATION CONTACT: David K. Beck, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, telephone: (202) 453-8250.

SUPPLEMENTARY INFORMATION: NASA has published miscellaneous amendments to the NASA FAR Supplement. Amendments to parts 1825 and 1852 are in error which are discussed briefly below and are corrected by this notice.

Dated: September 17, 1990.

S.J. Evans,

Assistant Administrator for Procurement.

The following corrections are made in the NASA FAR Supplement Directive 89-3, parts 1825 and 1852, published in the **Federal Register** on April 2, 1990 (55 FR 12174).

Subpart 1825.71—[Corrected]

1. On page 12175, 3rd column, line 12, change the word "revised" to "added".

1852.225-74 [Corrected]

2. On page 12178, first column, line 4, change the word "revised" to "added".

1852.225-75 [Corrected]

3. On page 12178, second column, line 1, change the word "revised" to "added".

[FR Doc. 90-22467 Filed 9-20-90; 8:45 am]

BILLING CODE 7510-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003 and 1160

[Ex Parte No. 55 (Sub-No. 69)]

RIN 3120-AB57

Rules Governing Applications for Operating Authority—Revision of Form OP-1

AGENCY: Interstate Commerce Commission.

ACTION: Final rules: correction.

SUMMARY: In this proceeding the Commission modified its licensing rules and adopted a revised application form (Form OP-1). 54 FR 53636 (December 29, 1989). In a companion proceeding, Ex Parte No. 55 (Sub-No. 69A), *Rules Governing Applications for Operating Authority—Revision of Form OP-1 (Hazardous Materials),* 55 FR 21386 (May 24, 1990), the Commission further revised the application form to reflect adjustments in the licensing policy governing hazardous materials transporters. This notice corrects the reference to Form OP-1 in the licensing rules and the corresponding reference in the Commission's List of Forms by updating the form's effective date to reflect the most recent revised version.

EFFECTIVE DATE: September 21, 1990.

FOR FURTHER INFORMATION CONTACT: Suzanne Higgins O'Malley, (202) 275-7292.

SUPPLEMENTARY INFORMATION:

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Insurance, Maritime Carriers, Motor Carriers, Securities, Surety Bonds.

49 CFR Part 1160

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Maritime carriers, Motor carriers.

PART 1003—LIST OF FORMS

1. The authority citation for 49 CFR part 1003 continues to read as follows:

Authority: 5 U.S.C. 551(a), 5 U.S.C. 553(1)(c), and 49 U.S.C. 10321.

§ 1003.2 [Corrected]

2. In § 1003.2, the reference to Form OP–1 is corrected to read: "OP–1 (Effective 6/1/90)."

PART 1160—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

1. The authority citation for part 1160 continues to read as follows:

Authority: 49 U.S.C. 10101, 10305, 10321, 10921, 10922, 10923, 10924, 10928, and 11102; 5 U.S.C. 553 and 559; 16 U.S.C. 1456.

§ 1160.3 [Corrected]

2. The reference to Form OP–1 in § 1160.3(a) is corrected to read: "Form OP–1 (Effective 6/1/90)."

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–22426 Filed 9–20–90; 8:45 am]

BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 55, No. 184
Friday, September 21, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 90-AEA-10]

Proposed Alteration of Transition Area; Sidney, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration (FAA) is proposing to modify the 700 foot Transition Area established at Sidney, NY for the Sidney Municipal Airport due to the closure of the Harmony Crest Airpark, the updating of the actual geographic position of the Sidney Municipal Airport, and a review of air traffic control procedures in the area. The intended effect of this action is to reduce the 700 foot Transition Area to that amount of controlled airspace which is actually required to separate aircraft operating under instrument flight rules from those operating under visual flight rules in controlled airspace.

DATES: Comments must be received on or before October 22, 1990.

ADDRESSES: Send comments on the rule in triplicate to: Edward R. Trudeau, Manager, System Management Branch, AEA-530, Docket No. 90-AEA-10, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AEA-10". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the 700 foot Transition Area established for the Sidney Municipal Airport, Sidney, NY to reflect the closure of the Harmony Crest Airpark, the updating of the actual geographic position of the airport, and a review of air traffic control procedures in the area. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Sidney, NY [Revised]

"That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, lat. 42°18'09" N., long. 75°24'59" W., of Sidney Municipal Airport, Sidney, NY; within 5 miles either side of the Rockdale VORTAC 218° (T) 229° (M) radial, extending from the Rockdale VORTAC to the 8.5-mile radius area; within 3 miles either side of the Hancock VORTAC 343° (T) 354° (M) radial, extending from the 8.5-mile radius area to 11 miles southeast of the airport."

Issued in Jamaica, New York, on August 23, 1990.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 90-22424 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 154

[Docket No. RM90-15-000]

Revisions to the Regulations Governing Purchased Gas Adjustments; Public Conference

September 13, 1990.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of public conference.

SUMMARY: The Federal Energy Regulatory Commission (Commission) staff is convening a public conference to afford the gas industry and the public an opportunity to present to the Commission's staff comments on possible revisions to the Commission's purchased gas adjustment regulations. Such revisions would: (1) Permit pipelines to pass through the costs of natural gas from producers "as-billed;" (2) permit pipelines to pass through standby charges incurred from upstream pipelines as gas costs; and (3) permit pipelines to track upstream transportation and compression (Account No. 858) costs. The notice invites all interested persons to participate in the conference.

DATES: The public conference will be held on October 17, 1990, at 10 a.m. Requests to speak should be received by the Commission on or before October 5, 1990.

ADDRESSES: The conference will be held in the Commission's Hearing room Number 1, 810 First Street, NE., Washington, DC. All requests to speak should identify the name of the speaker and the group represented, refer to Docket No. RP90-15-000, and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Mary Benge Sanchez, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-0296.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Commission is convening a conference to afford an opportunity for the industry and the public to discuss with the Commission's staff several possible revisions to the Commission's purchased gas adjustment (PGA) regulations that would: (1) Permit pipelines to pass through the costs of natural gas purchased from producers "as-billed;" and (2) permit pipelines to pass through standby charges incurred from upstream pipelines as gas costs; as well as to add a section to permit pipelines to track upstream transportation and compression (Account No. 858) costs. The conference will be held in the Commission's Hearing room No. 1, 810 First Street, NE., Washington, DC, on October 17, 1990.

II. Background

A. The Current PGA Regulations

The Commission permits natural gas pipeline companies to recover changes in the cost of purchased natural gas from their jurisdictional customers through a PGA filing as an alternative to recovering these costs in a general rate filing pursuant to section 4 of the Natural Gas Act.[1] The procedures for PGA recovery are set forth in §§ 154.301 *et seq.* of the Commission's regulations.

In Order No. 483, the Commission adopted major revisions to the PGA regulations. Since the issuance of Order No. 483, the Commission and the industry have gained experience in the practical application of those PGA regulations. The Commission is interested in learning whether additional refinements in those regulations may be necessary to facilitate competition in the natural gas sales market and to ensure that the PGA regulations do not undermine the ability of interstate pipelines to compete on an equal footing with other gas sellers.

B. The Need for Changes to the Regulations

In 1985, the Commission adopted Order No. 436,[2] which launched a new era of open-access transportation by pipelines performing self-implementing transportation either under the Natural Gas Act [3] or the Natural Gas Policy Act (NGPA).[4] In part 284, the Commission set forth its objectives and policies with respect to the designing of rates for a pipeline's open-access transportation services.

The effect of Order No. 436 has been to facilitate competition between the pipeline and others—producers, other pipelines, and gas marketing companies—in the sales market, and to ease the pipeline's transition to a transporter of gas for those with which it competes for sales. The majority of major interstate pipelines in the U.S. are now open-access transporters, providing transportation service on a nondiscriminatory basis. Interstate pipelines today are predominantly transporters, rather than merchants, of natural gas. The Commission has recognized that pipelines need flexibility to compete as merchants with other suppliers and has indicated its

[1] 15 U.S.C. 717(c) (1982). The procedures for recovering purchased gas costs in an NGA section 4 general rate proceeding are provided in § 154.63 of the Commission's regulations. See 18 CFR 154.63 (1988).

[2] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, FERC Statutes and Regulations, Regulations Preambles 1982-1985 ¶ 30,665 (1985), *vacated and remanded*, Associated Gas Distributors v. FERC, 824 F.2d 981 (D.C. Cir. 1987), *readopted on an interim basis*, Order No. 500, FERC Statutes and Regulations ¶ 30,761 (1987).

[3] Section 7, 15 U.S.C. 717f (1982).

[4] Section 311, 15 U.S.C. 3371 (1982).

willingness to consider alternatives that afford pipelines such flexibility in this area.

As the transition of pipelines from their role as predominantly merchants to that of transporters progressed, the Commission became concerned that certain rate designs might be outdated in light of such post-Order No. 436 changes. Accordingly, it adopted its recent policy statement on rate design, [5] in which it articulated its willingness to consider new mechanisms to best accommodate these transitions and implement the Commission's rate design goals.[6]

Additional revisions to the Commission's rate regulations now may be required to further enhance the pipelines' flexibility in performing their merchant roles.

III. Topics About Which the Commission Seeks Discussion

A. As-Billed Treatment of Producer Demand Charges

Section 154.305(b)(1) of the Commission's PGA regulations requires that "[p]roducer rate changes must be applied to the commodity component of a pipeline's two-part rates or to the volumetric rates of a pipeline's one-part rates." [7] Thus, under the regulations, a pipeline is given the opportunity to recover its gas costs only to the extent it actually sells gas.

Producer demand charges are fixed charges that producers may assess pipelines for supplies that the pipelines contract to buy from the producer. Producers have traditionally priced their gas sold to pipelines on a per-unit basis although gas purchase contracts have often included a take-or-pay clause. The take-or-pay clause was intended as a way for the producer to recover the costs of reserving long-term gas supplies. Recently, however, some pipelines have entered into gas purchase contracts with producers under which a two-part demand-commodity price structure is used to recover the cost of gas sold, and have filed proposals with the Commission to recover the producer demand charges from their customers on an "as-billed" basis, that is, through the pipeline's demand charge. These proposals have prompted the Commission to re-examine its policies regarding the requirement that all producer-related charges must be recovered in a pipeline's commodity charge.

The Commission is concerned that the current regulations, by requiring a pipeline to flowthrough all of its producer payments in a commodity charge, may make it difficult for the pipeline to enter into long-term contracts with producer demand charges without the pipeline's assuming a large degree of risk that it will not recover all of its costs, and may be interfering with what otherwise might be a natural development in the marketplace. Since an assured cash flow to producers should facilitate exploration and drilling and long-term contracts, the regulations should not impede the ability of pipelines and producers to enter into such contracts and thereby undermine the adequacy of long-term supplies.[8]

The Commission is particularly interested in the participants' comments on the following issues related to the "as-billed" flowthrough of producer demand charges:

(1) What is the scope of the practice of including producer demand charges in gas contracts? To what extent is the industry moving toward the inclusion of producer demand charges? To what extent do the current regulations inhibit the use of producer demand charges? Are producer demand charges used in contracts as an alternative to take-or-pay clauses?

(2) Would "as-billed" flowthrough of producer demand charges be an alternative to gas inventory charges in order to have customers pay, on a current basis, for the development and reservation of gas supplies?

(3) What are the advantages or disadvantages to pipelines, producers, and customers, of allowing the "as-billed" flowthrough of producer demand charges?

(4) What steps could be taken to mitigate any negative or anticompetitive effects of "as-billed" flowthrough? What conditions, if any, should the Commission attach to the as-billed flowthrough of producer demand charges? Should the Commission require that customers be allowed to nominate new levels of firm sales service, or ensure that the firm transportation of third party gas supplies is available as an alternative to the pipeline's sales service, as part of a producer demand charge? What would be the implications of a limitation on "as-billed" flowthrough of producer demand charges to open-access pipelines? Should there be a cap on the level of producer demand charges that may be flowed through in the demand charge? Should pipelines that wish to flow through producer demand charges "as-billed" be precluded from also recovering take-or-pay costs?

B. As-Billed Treatment of Imported Gas Costs

Section 154.305(b)(3) of the PGA regulations, which governs the treatment of imported natural gas rate changes, provides that "[p]roduction costs, gathering costs, and carrying charges associated with take-or-pay payments must be applied to the commodity component of a pipeline's two-part rates or to the volumetric rates of a pipeline's one-part rates." In Opinion Nos. 256 and 256–A, the Commission addressed the proper ratemaking treatment of the cost of Canadian natural gas and required that the costs of Canadian gas must be flowed through to United States customers in the same manner in which the costs of domestic gas are flowed through to United States customers. Thus, any proposal to remove the requirement that producer charges be flowed through in the commodity component of the rate would also require an amendment to § 154.305(b)(3) to parallel an amendment to § 154.305(b)(1) allowing the as-billed treatment of producer demand charges. Accordingly, the Commission requests that conference participants address this aspect of the as-billed flowthrough of producer demand charges also.

C. Treatment of Affiliated Producers

Finally, in considering whether to amend the regulations to flow through producer demand charges on an "as-billed" basis, the Commission may also need to amend § 154.305(a) (3) of the regulations. That section describes the report on a pipeline's purchasing practices that must be included in the pipeline's annual PGA filing. Participants are asked to comment on possible limitations on the terms under which affiliated producer demand charges may be flowed through by considering the following:

(1) Should affiliated producer demand charges be flowed through in the same manner as nonaffiliated producer demand charges?

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[5] Interstate Natural Gas Pipeline Rate Design, 47 FERC ¶ 61,295 (1989), *reh'g*, 48 FERC ¶ 61,122 (1989).

[6] 47 FERC ¶ 61,295, at p. 62,053, n. 23 (1989).

[7] 18 CFR 154.305(b)(1) (1990).

[8] In CNG Transmission Corp., 52 FERC ¶ 61,225 (1990), and Equitrans, Inc., 52 FERC ¶ 61,228 (1990), issued on August 31, 1990, the Commission granted limited waivers to permit both pipelines to flow through certain producer demand charges prospectively on an as-billed basis. The Commission concluded that public policy concerns for the functioning of the wellhead gas market and the adequacy of long-term gas supplies required that the as-billed flowthrough of producer demand charges be permitted. However, because of potential anti-competitive effects that as-billed flowthrough of producer demand charges might have, the Commission granted waiver of the regulations for no more than one year and made the waiver subject to this public conference on revisions to the PGA regulations.

(2) Should affiliated producer demand charges be recovered through the commodity charge only?

(3) What, if any, cap should be put on the amount of affiliated producer demand charges that can be flowed through?

(4) Should pipelines that wish to flow through producer demand charges on an as-billed basis be required to specifically address their purchasing policies with respect to their proposed treatment of affiliates?

D. Treatment of Standby Charges as Purchased Gas Costs

Standby sales service is a service whereby a pipeline's customer converts a portion of its firm sales service to firm transportation service, but elects to have its pipeline supplier stand ready as a backup source for gas supply for the portion of firm sales service converted to firm transportation service. As another revision to the PGA regulations the Commission is also considering whether to allow pipelines to track, through the PGA, standby charges assessed them by their pipeline suppliers.

To date, the Commission has allowed pipelines to track upstream supplier standby charges on a case-by-case basis.[9] While the Commission has consistently declined to classify these charges as "purchased gas costs," as defined at 18 CFR 154.302(j), the Commission has permitted their treatment as such since they are charges of an upstream pipeline that have been approved by the Commission.

The tracking of standby charges may give customers more flexibility to purchase either gas sales service or transportation service, depending on comparative prices, while still being assured of gas supply. Accordingly, the Commission solicits the views of the industry and the general public on allowing pipelines to track the charges in their PGA filings. In particular, the Commission invites commentary on the following questions:

(1) To what extent does tracking of standby charges serve to facilitate the conversion from firm sales to firm transportation and enhance the flexibility of pipelines to purchase either gas sales service or transportation service? Does tracking give downstream pipelines an incentive to take full advantage of varied options?

(2) What are the advantages and disadvantages to the different segments of the industry of tracking standby charges?

(3) What alternatives exist to a change in the current regulations?

E. Recovery of Account No. 858 Costs

The costs of transmission and compression of gas by others (Account No. 858) are included in a pipeline's cost of service as a transmission function operation and maintenance expense. In a rate case, the pipeline projects the amount of dollars it estimates that it will need, on an annual basis, to pay others for the transportation and compression of gas that it will acquire, and includes that amount in its cost of service. To the extent actual Account No. 858 expenses exceed the amount projected, the pipeline must bear the risk for the difference. However, if the pipeline's actual Account No. 858 expenses are less than projected, the pipeline retains the difference.

When a downstream pipeline converts on an upstream pipeline from firm sales to firm transportation, the upstream pipeline commences charging the downstream pipeline for transportation services. Prior to conversion, these charges are embedded in the upstream pipeline's sales rates and can be recovered through the downstream pipeline's PGA. However, after conversion, transportation charges are no longer embedded in sales rates. Consequently, these transportation charges cannot be recovered through the downstream pipeline's PGA, even though the downstream pipeline may be using the upstream pipeline's transportation facilities to make sales of gas acquired from suppliers other than the upstream pipeline. Instead, these costs may only be recovered through the downstream pipeline's Account No. 858, with service projections made in a general section 4 rate case.

If a pipeline has ongoing conversions, it is continually paying transportation costs that it has not included in its Account No. 858 projections. Under the current regulations, the pipeline must file section 4 rate cases to try to recover increased costs prospectively, without being able to recover those costs it already may have had to absorb because of underprojections of Account No. 858 costs.

In the past, the Commission has authorized tracking of transportation charges only on a case-by-case temporary basis, specifically through settlement of general rate change proceedings. Generally, such tracking has been limited to the time the rates established in those proceedings remain in effect.[10]

The Commission has also allowed pipelines to file an abbreviated section 4 rate case to address the proper level of Account No. 858 costs which should be included in the base rates.[11]

The Commission has traditionally disallowed long-term authority to flow through, or "track," third-party transportation charges, based on the fact that increases in certain costs of a pipeline may be offset by decreases in other costs. Thus, the Commission has generally held that it is inappropriate for a pipeline to track increases in one type of cost without examining all its other costs to determine whether other costs have decreased. Nevertheless, the Commission has allowed the tracking of certain types of costs, such as purchased gas costs, Research, Development and Demonstration costs, and Alaska Natural Gas Transportation System charges.

Participants are asked to consider whether equally compelling reasons exist for adopting regulations authorizing Account No. 858 cost tracking. Although the Commission invites participants to discuss all aspects of Account No. 858 cost tracking, the Commission is particularly interested in the following issues:

(1) Is the need for pipelines to file frequent section 4 rate increase applications a temporary, transitional problem not requiring a permanent change to the regulations, or is a permanent tracking mechanism for Account No. 858 necessary? What alternatives exist to allowing tracking on an ongoing basis?

(2) To what extent does tracking of Account No. 858 costs facilitate conversions?

(3) If pipelines are permitted to track Account No. 858 costs, should they also be required to credit revenues received from providing transportation services to a shipper that uses the pipeline's firm transportation capacity entitlements in another pipeline? If so, what type of crediting mechanism should be used? Would crediting the revenues to Account No. 191 or a similar deferred account mechanism serve to prevent subsidization by sales customers of transportation services?

[9] In CNG Transmission Corporation, 45 FERC ¶ 61,361 (1988), CNG proposed to track standby charges in its quarterly PGA filing. It sought to do so by amending the definition of purchased gas costs contained in the PGA provisions of the general terms and conditions of its tariff. The Commission, even though standby charges are not gas costs, allowed the tracking of those standby charges assessed CNG by Texas Eastern pursuant to Texas Eastern's sales rate schedules.

[10] See, *e.g.*, Sea Robin Pipeline Company, 18 FERC ¶ 61,277 (1982).

[11] See, *e.g.*, National Fuel Gas Supply Corp., 49 FERC ¶ 61,207 (1989); Texas Gas Transmission Corporation, 48 FERC ¶ 61,391 (1989).

(4) Should initial cost levels be established through a section 4(e) general rate change filing, in which the parties have the right to examine the pipeline's rate of return and investigate relative risk?

(5) What limitations, if any, should be imposed on tracking of Account No. 858 costs? Should the tracking be limited to pipelines with a PGA clause in their tariffs? Should tracking be limited to changes in Account No. 858 costs resulting from conversions?

F. General

The Commission previously has acted to approve PGA treatment for GIC charges [12] and for pricing dispute resolution settlement costs in global take-or-pay settlements,[13] among other gas purchase and related costs. In its consideration of PGA treatment for (1) "as-billed" flowthrough of producer demand charges, (2) recovery of standby charges, and (3) tracking of Account No. 858 costs, the Commission is generally interested in public comment on the overall effect on the PGA mechanism and the impact in the aggregate of including such additional costs in PGA billings. Participants are asked to consider whether the inclusion of these various costs in addition to direct gas purchase costs would require any other modification in the PGA mechanism as a matter of law or a matter of policy.

IV. Procedures for Comments

Persons desiring to make an oral presentation to the staff must file a request to speak. Persons with common points of view are urged to jointly submit their written comments and to appoint a single spokesperson for oral presentations to the staff. The requests to speak should be filed with the Secretary of the Commission on or before October 5, 1990. Requests to speak should identify the name of the speaker and the group represented, should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM90-15-000.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 90-22362 Filed 9-20-90; 8:45 am]

BILLING CODE 6717-01-M

[12] Equitrans, Inc., 52 FERC ¶ 61,228 (1990); Carnegie Natural Gas Co., 45 FERC ¶ 61,355 (1989); CNG Transmission Corp., 44 FERC ¶ 61,203 (1988).

[13] ANR Pipeline Co., 50 FERC ¶ 61,372 (1990).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3832-8, Docket No. AM020DE]

Disapproval of Revisions to the Delaware State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is proposing to disapprove a compliance date extension as a revision to the Delaware SIP for topcoat operations at the General Motors Corporation in Wilmington, Delaware (GM-Wilmington) automobile assembly plant. On May 2, 1985, EPA published a notice in the **Federal Register** proposing approval of revisions to the Delaware Regulations Governing the Control of Air Pollution (50 FR 18693). These regulations are part of the Delaware State Implementation Plan (SIP) and were adopted by the State and submitted to EPA for approval pursuant to section 110 of the Clean Air Act (the Act). The revisions to these regulations sought by Delaware proposed to extend the compliance dates for reduction of volatile organic compound (VOC) emissions with respect to reasonably available control technology (RACT) for lacquer topcoat and final repair surface coating standards for automobile and light-duty trucks at GM-Wilmington. (The May 2, 1985 notice was not applicable to Chrysler Corporation in Delaware because Chrysler does not use lacquer topcoat or final repair coatings). No comments were received in response to that Notice.

Today's notice withdraws EPA's proposed approval and, instead, proposes disapproval of the compliance date extension revisions to the Delaware SIP for topcoat and final repair operations at GM-Wilmington. Information submitted to EPA by Delaware since the proposed approval was published indicates that, due to circumstances in the State, the SIP revision does not meet the requirements of sections 110 and 172 of the Act and EPA policy interpreting the requirements of the Act. As explained below, the only operations that were the subject of these regulations at the time of Delaware's request no longer exist because GM-Wilmington shut down the operations for retooling. However, the new sources/major modifications which replaced these operations are also subject to the RACT regulations at issue in Delaware's submittal. Because Delaware has declined to withdraw the pending SIP revision, EPA is proposing disapproval of the compliance date extension to the extent it can be construed to apply to these new sources/major modifications.

DATES: Comments must be submitted on or before October 22, 1990.

ADDRESSES: Copies of this document and accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Attn: Cynthia Stahl (3AM13).

Air Resources Section, Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901, Attn: Robert French.

All comments on the proposed revision submitted within 30 days of this Notice will be considered and should be addressed to Mr. David L. Arnold, Chief, Program Planning Section at the Region III address above. Please reference the EPA docket number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia H. Stahl, (215) 597-9337, at the Region III address above. The commercial and FTS phone numbers are the same.

SUPPLEMENTARY INFORMATION: On October 15, 1984, the State of Delaware submitted a request to EPA to revise the Delaware SIP by amending Tables I and I(a) in its Regulations Governing the Control of Air Pollution, Regulation No. XXIV, Control of Volatile Organic Compound Emissions, section 9, Surface Coating Operations, and the corresponding compliance schedule. The revision proposed to extend the final compliance dates for VOC emissions in the lacquer topcoat and lacquer final repair surface coating standings (Tables I and I(a)), from December 31, 1985 and December 31, 1982, respectively, to December 31, 1987. The compliance schedule would also change to correspond with the changes in final dates in Tables I and I(a). The proposed revision pertains to RACT requirements alone and would have no effect on any obligations either Delaware or GM-Wilmington have with respect to new source requirements under sections 110, 111 and part C and D of the Act. Although GM-Wilmington retooled its surface coating operations after February 7, 1986, EPA is proposing to deny Delaware's request for extension of compliance requirements for the newly retooled operations to the extent that the Delaware request can be

construed as a proposed compliance date extension for those operations.

According to EPA policy interpreting section 110 and 172 of the Act, one of the tests that a State must meet to have a compliance date extension granted for a VOC source in an ozone nonattainment area, such as New Castle Country, is to be able to demonstrate that the extension will not interfere with the timely attainment and maintenance of the ozone standard or with reasonable further progress (RFP) toward timely attainment of that standard. (See, for example, Policy on SIP Revisions Requesting Compliance Date Extensions for VOC Sources, Memorandum from J. Craig Potter, Assistant Administrator for Air and Radiation, August 7, 1986). The demonstration by the State should include, what, if any, portion of its margin for growth has been utilized by new VOC sources that may have located in the area since the original SIP was approved, as well as by existing VOC sources that may have already been granted compliance date extensions. The second test a State must meet to have compliance date extensions granted is that the proposed extensions must be consistent with the Clean Air Act requirement that nonattainment area SIPs provide for the implementation of all RACT as expeditiously as practicable. The burden is on the source to show that any compliance date extension for RACT is expeditious.

As discussed in the accompanying technical support document, the information submitted to EPA by Delaware in 1987 shows that the State cannot demonstrate that the compliance date extension for GM-Wilmington would not interfere with attainment and maintenance of the ozone standard or with RFP toward timely attainment. Specifically, on November 13, 1986, Delaware submitted information that additional sources had been granted permits allowing VOC emissions at levels such that the noninterference and RFP conclusions could no longer be supported. This information indicated that permits were issued to the following VOC sources and consumed a total of 340 tons per year (TPY):

Hercules—Film Coating process—99 TPY
Crown Zellerbach—Fourth printing press—70 TPY
Crown Advance Films—Presses 5 thru 8—150 TPY
Pittsburgh Plate Glass—Safety glass assembly—21 TPY

The Delaware 1982 SIP's total growth allowance was 474 TPY and the above permits left a balance of 134 TPY remaining as the growth allowance.

Since Delaware, on behalf of GM-Wilmington, requested the compliance date extension for two years, until December 31, 1987, the discussion and conclusions in this Notice are based on that request. Accordingly, the relevant years with respect to the compliance date extension request are 1986 and 1987. In a March 2, 1984 report prepared by Delaware, the projected VOC emissions for the GM-Wilmington topcoat operations, for each of the years 1986 and 1987 were 1026 TPY in excess of current allowable RACT emissions for that operation. Additionally, the problem of over utilization of the growth allowance was aggravated in 1985 by another VOC source which Delaware allowed to emit an additional 76 TPY.

Further the October 20, 1981 EPA policy statement, referred to in the 1985 proposed approval of the GM-Wilmington compliance date extension, allows for extensions for existing plants subject to RACT as long as continued compliance with the statutory requirements of sections 110 and 172 of the Act is assured (46 FR 51386). The policy says that each of these SIP revisions "will need to be evaluated in light of (its) impact on the overall SIP and the individual elements, including emission reductions necessary to demonstrate RFP toward attainment of standards." The information available to EPA in 1985 indicated that Delaware's proposed revision met the requirements of the Act and EPA policy. As discussed above, this is no longer the case.

Section 172(b) of the Clean Air Act requires that all reasonable available control measures be adopted as expeditiously as practicable. The source requesting the compliance date extension must meet its burden of showing that it had exhausted all other alternatives and that the compliance date extension would satisfy the requirement that the RACT standard was being complied with in an expeditious manner. The GM-Wilmington plant did not meet its burden of showing that it was trying to meet the applicable RACT standard by the approved compliance date of December 31, 1985. Although the May 2, 1985 Notice stated that EPA believed that all the necessary requirements of the Clean Air Act and EPA policy were met, EPA now believes that this is not true since the new topcoat technology of basecoat/clearcoat technology was installed at several automobile/light-duty truck assembly plants prior to the end of 1985, including GM-Baltimore, located in Baltimore, Maryland. A variety of abatement technologies were also available to this industry before the end of 1985. The choice whether to remain with GM-Wilmington's existing topcoat operation and install a device to abate the VOC emissions and/or to convert to BC/CC is, and was, GM's alone. EPA believes that GM-Wilmington's operations could have complied by December 31, 1985 regardless of which type of topcoat operation it chose to use.

Because of facts brought to EPA's attention subsequent to the publication of the May 2, 1985 Notice, EPA can no longer support approval of a compliance date extension for GM-Wilmington. These facts relate to RFP and expeditiousness which are critical elements in the approval of any compliance date extension.

Conclusion

Since the VOC compliance date extensions sought for by Delaware for RACT for topcoat operations at GM-Wilmington do not meet the requirements of the Clean Air Act or EPA policy, EPA is today withdrawing its May 2, 1985 proposed approval of the above described revisions to the Delaware SIP and instead proposing disapproval of the same.

Proposed Action

EPA is proposing to disapprove the October 15, 1984 request by the State of Delaware to amend Regulation No. XXIV, Control of Volatile Organic Compound Emissions, section 9, Surface Coating Operations, and the corresponding compliance schedule. For the reasons described in this notice, EPA is proposing to disapprove the extension of the final compliance dates of the lacquer topcoat and lacquer final repair surface coating standards (Tables I and I(a) of Regulation No. XXIV, referenced above) from December 31, 1985 and December 31, 1982, respectively, to December 31, 1987.

Under 5 U.S.C. 605(b), the Regional Administrator certifies that this SIP revision will not have a significant impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action pertaining to the proposed disapproval of an extension of final compliance dates for automobile

and light-duty truck topcoat and final repair coatings in Delaware Regulation No. XXIV, section 9 should be constructed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Regional Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: September 12, 1990.

Edwin B. Erickson,

Regional Administrator.

[FR Doc. 90–22437 Filed 9–20–90; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 300

[FRL 3832–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Whitehall Municipal Wells site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region V announces its intent to delete the Whitehall Municipal Wells site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERLA), as amended by section 105 of the Superfund Amendments and Reauthorization Act of 1986 (SARA). As specified in the NPL, it has been determined that all Fund-financed responses under CERCLA have been implemented. EPA, in consultation with the State of Michigan, has determined that no cleanup is appropriate. The purpose of this notice is to request public comment on the intent of EPA to delete the Whitehall Municipal Wells Site.

DATES: Comments concerning the proposed deletion of the site from the NPL may be submitted on or before October 30, 1990.

ADDRESSES: Comments may be mailed to Karla L. Johnson (5HS–11), Remedial Project Manager, Office of Superfund, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, IL 60604. Comprehensive information on this site is available at the local repository located at: Whitehall Municipal Library, 414 E. Spring, Whitehall, MI. 49461, (616) 894–9531. Requests for comprehensive copies of documents should be directed formally to the appropriate Regional Docket Office. The address for the Regional Docket Office is William Messenger (5HSM–TUB–7), Region V, U.S. EPA, 111 W. Jackson Boulevard, Chicago, IL. 60604, (312) 353–1057.

FOR FURTHER INFORMATION CONTACT: Karla L. Johnson (5HS–11), Remedial Project Manager, Office of Superfund, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, IL. 60604, (312) 886–5993; or Dan O'Riordan (5PA–14), Office of Public Affairs, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, IL. 60604, (312) 886–4359.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Environmental Protection Agency (EPA) announces its intent to delete the WhiteHall Municipal Wells site, Whitehall Michigan from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR part 300 (NCP), and request comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Response Trust Fund (FUND). Pursuant to Section 105 (e) of CERCLA, any site deleted from the NPL remains eligible for further Fund-financed remedial action should future conditions at the site warrant such action.

The EPA will accept comments on this site for thirty days after publication of this notice in the **Federal Register.**

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the history of the site and how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from or recategorized on the NPL where no further reponse is appropriate. In making this determination to delete a site from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Prior to deciding to delete a site, EPA must first determine that the remedy, or existing site conditions at the sites where no action is required, is protective of public health, welfare, and the environment. In addition, § 300.425(e)(2) of the NCP states that no site shall be deleted from the NPL until the state in which the site is located has concurred on the proposed deletion.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future conditions warrant such actions. Section 300.425(e)(3) states that whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the hazard ranking system (HRS).

Deletion of sites from the NPL does not in itself create, alter, revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

III. Deletion Procedures

Upon determination that at least one of the criteria described in § 300.425(e)(1) of the NCP has been met, EPA may formally begin deletion

procedures. The first steps are the preparation of a Superfund Site Closeout Report and the establishment of the local information repository and the Regional deletion docket. These actions have been completed. This Federal Register notice, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30 day public comment period. The public is asked to comment on EPA's intention to delete the site from the NPL; all critical documents needed to evaluate EPA's decision are generally included in the information repository and deletion docket.

Upon completion of the public comment period, the EPA Regional Office will prepare a Responsiveness Summary to evaluate and address concerns which were raised. The public is welcome to contact the EPA Regional Office to obtain a copy of this Responsiveness Summary, when available. If EPA still determines that deletion from the NPL is appropriate, a final notice of deletion will be published in the Federal Register. However, it is not until the next official NPL rulemaking that the site would actually be deleted.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for intending to delete the Whitehall Municipal Wells site, Whitehall, Michigan from the NPL.

The City of Whitehall is located in the western part of the Lower Peninsula of Michigan on the shore of Lake Michigan. The Whitehall Municipal Wells site is located in the northeast portion of Whitehall, Michigan. The site is in Funnel Field, north of Colby Street and south of the ravine and backwaters of the White River. Production well #3 (PW3) supplied potable water to a population of approximately 3,000 while in service. PW3 was permanently abandoned as of September 1, 1989.

In October 1980, a routine quarterly analysis of the city's water supply by the Michigan Department of Public Health (MDPH) revealed the presence of perchloroethylene (PCE) in a sample collected from Whitehall City Hall. Subsequent resampling and analysis confirmed the presence of the contaminant and eventually PW3 was determined to be the source of the problem. In early 1981, MDPH recommended that the city use PW3 only on an emergency basis and that it be eventually replaced. The initial response from the city was to take PW3 off-line and increase pumpage in PW2, 4, and 5 in order to maintain an adequate water supply. The city continued to use PW3, but on an "as needed" basis at reduced pumpage rates until October 1988.

The nearby laundromat/dry cleaner was a primary suspect for the PCE contamination in the well. On May 18, 1981, soil samples were collected around the facility and chemical analysis revealed 1.0 mg/kg of PCE. Since that time, the facility changed hands and the new owner has eliminated the PCE leakage problem.

Residential wells located northeast of PW3 were tested as part of the Site Investigation (SI). Samples collected from homes along Peterson Road in May 1982 indicated that the area groundwater was contaminated with volatile organic compounds (VOCs). Additional sampling indicated that Whitelake Landfill and Shellcast, Inc. were the source of this contamination, and a separate contamination problem from the one involving PW3. In April 1985, Shellcast and Whitelake Landfill entered into a Consent Order with the United States Environmental Protection Agency (U.S. EPA) to provide a permanent water supply to the residences whose wells were contaminated and to conduct further hydrogeological investigations. Both Shellcast and Whitelake Landfill are currently in the pre-remedial stage and waiting for the final scoring process for possible inclusion on the NPL.

In September 1984, the Whitehall Municipal Wells site scored high enough to be placed on the NPL of sites eligible for investigation and cleanup under the Superfund program.

The SI follow-up was conducted from May 1986 to April 1988 to determine the nature and extent of contamination at the Whitehall Municipal Wells site. A geophysical investigation was performed at the site on May 26 and 27, 1987. Resistivity techniques were used because of the presence of overhead wires, underground wires and underground pipelines. A soil gas survey was performed at the site on May 25 and 27, 1987. The purpose of the survey was to determine the presence of VOCs at detectable concentrations. Also, during the SI follow-up, five cluster wells were installed in addition to the monitoring wells put in by the city and the SI contractor. Subsequently, groundwater samples and soil samples were collected.

Although extensive groundwater investigation was performed, no discrete source of contamination was found. In addition, although contamination was found in PW3 initially, quarterly sampling revealed no contamination from 1982 to the time of its permanent closure in 1989. The predominant factor in permanent closure was not the previous contamination of the well, but rather its poor production capacity due to its age and extensive rehabilitation costs. Also, a new well and storage facilities built since 1980 have reduced any need for obtaining water from PW3.

The Remedial Investigation (RI) was conducted from March 1988 to May 1989 to eliminate any data gaps from the SI follow-up, and to confirm the absence of any contamination problem at the site. During the RI, all the monitoring wells were resampled. The RI continued to show absence of any contamination at the site.

A baseline risk assessment of the site was prepared in February 1990. It concluded that the site was not of public health concern under current conditions because of the absence of human exposure to significant levels of hazardous substances. No environmental and human exposure pathways were identified since the closure of PW3. However, human exposure to low levels of PCE and potentially other VOCs had probably occurred in the past via contaminated groundwater.

On September 29, 1989, a Record of Decision (ROD) was signed which approved the "No Further Action" remedy. The State of Michigan concurred with the ROD on September 26, 1989.

A community relations plan was submitted to and approved by the U.S. EPA. Community Relations activities included conducting interviews with residents and local officials, public meetings, and the publication of a factsheet on the RI and Proposed Plan. Based on interviews conducted, it is evident that interest is focused, not on the Whitehall Municipal Wells site, but on the Whitelake Landfill site located nearby. Efforts have been made to maintain contact with the citizens group and to address their concerns as much as possible. An informal meeting was held with the citizens group on August 9, 1989.

The dates of the public comment period, the date and location of a public hearing and a summary of the Proposed Plan were announced through a legal notice in a local newspaper.

The Whitehall Municipal Wells Proposed Plan, which includes a description of the investigation findings and conclusions, was mailed to those on the community relations mailing list and was available along with the Administrative Record at the information repository at the Whitehall Municipal Library in Whitehall.

The public hearing was held at the Whitehall City Hall, 405 Colby Street, on

August 24, 1989 to discuss the RI and the preferred alternative. Approximately 30 people were at the hearing. Their concerns were addressed in the Community Relations Responsiveness Summary.

All completion requirements for this site have been met as specified in OSWER Directive 9320.2-3A. Sampling has verified that PW3 was free of any contamination. Furthermore, PW3 has been permanently closed by the City of Whitehall. Therefore, the ROD of September 29, 1989 recommended "No Further Action". Because this remedy will not result in hazardous substances remaining on-site above health-based levels, the five-year review will not apply to this action.

Dated: September 10, 1990.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region V.

[FR Doc. 90-22438 Filed 9-20-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

44 CFR Part 67

[Docket No. FEMA-7000]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, flood plains.

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARKANSAS	
Benton County (Unincorporated Areas)	
Little Osage Creek:	
Approximately .3 mile downstream of State Route 102	*1,264
Approximately 700 feet downstream of State Route 102	*1,269
Maps available for inspection at the Benton County Courthouse, Bentonville, Arkansas.	
Send comments to The Honorable Bruce Rutherford, Benton County Judge, 203 East Central, room 201, Bentonville, Arkansas 72712.	
Black Rock (City), Lawrence County	
Black River:	
At approximately 500 feet downstream of the downstream corporate limits	*262
At the most upstream corporate limits	*264
Maps available for inspection at the City Hall, Main Street, Black Rock, Arkansas.	
Send comments to The Honorable Jakie Hanan, Mayor of the City of Black Rock, Lawrence County, City Hall, Main Street, Black Rock, Arkansas 72414.	
Lawrence County (Unincorporated Areas)	
Black River:	
At approximately 42.69 river miles above the confluence of the White River	*243
At approximately 47.57 river miles above the confluence of the White River	*245
At approximately 65.75 river miles above the confluence of the White River	*259
At approximately 72 river miles above the confluence of the White River	*264
Big Running Water Creek:	
Approximately .73 mile downstream of State Route 228	*247
At approximately .49 mile upstream of State Route 228	*249
Spring River:	
At approximately 1.54 miles downstream of U.S. Route 62	*283
At approximately 1.50 miles upstream of U.S. Route 62	*292
At approximately 1,690 feet downstream of Burlington Northern Railroad	*304
At approximately 2.17 miles upstream of County Route 22	*312
Maps available for inspection at the County Courthouse, Main Street, Walnut Ridge, Arkansas.	
Send comments to The Honorable Alex Latham, Lawrence County Judge, County Courthouse, Main Street, Walnut Ridge, Arkansas 72476.	
Portia (Town), Lawrence County	
Black River:	
Approximately 1.6 miles downstream of U.S. Route 63 and State Route 25	*260
Approximately .5 mile upstream of Burlington Northern Railroad	*263
Maps available for inspection at the City Hall, Grove Street, Portia, Arkansas.	
Send comments to The Honorable James Penn, Mayor of the Town of Portia, Lawrence County, Grove Street, Portia, Arkansas 72457.	
Powhatan (Town), Lawrence County	
Black River:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At the downstream corporate limits	*259
At the upstream corporate limits	*260
Maps available for inspection at the Town Hall, Powhatan, Arkansas.	
Send comments to The Honorable David Foley, Mayor of the Town of Powhatan, Lawrence County, P.O. Box 77, Powhatan, Arkansas 72458.	
CONNECTICUT	
Plainfield (Town), Windham County	
Quinebaug River:	
At downstream corporate limits	*108
At upstream corporate limits	*146
Moosup River:	
At confluence with Quinebaug River	*128
At upstream corporate limits	*282
Mill Brook:	
At downstream corporate limits	*124
Approximately 60 feet upstream of Kate Downing Road	*160
Frye Brook:	
At confluence with Horse Brook	*156
At Evans Pond Dam	*177
Horse Brook:	
At confluence with Mill Brook	*149
Approximately 0.4 mile upstream of Cemetery Road	*162
Maps available for inspection at the Town Clerk's Vault, 8 Commerce Avenue, Plainfield, Connecticut.	
Send comments to The Honorable Paul E. Sweet, First Selectmen of the Town of Plainfield, Windham County, Town Hall, 8 Commerce Avenue, Plainfield, Connecticut 06374.	
GEORGIA	
Lee County (Unincorporated Areas)	
Kinchafoonee Creek:	
At southern county boundary	*192
Just downstream of State Route 32	*209
Muckaloe Creek:	
At southern county boundary	*192
About 6.7 miles upstream of southern county boundary	*210
Flint River:	
About 2.8 miles upstream of Georgia Power Dam	*195
About 2.8 miles upstream of southern county boundary	*207
Maps available for inspection at the Building Inspection Department, County Courthouse, Leesburg, Georgia.	
Send comments to The Honorable T.P. Tharp, County Administrator, Lee County, P.O. Box 56, Leesburg, Georgia 31763.	
KANSAS	
Franklin County (Unincorporated Areas)	
Pottawatomie Creek:	
At eastern county boundary	*872
About 1.12 miles downstream of southern county boundary	*885
Marais Des Cygnes River:	
At eastern county boundary	*871
About 0.85 mile upstream of Atchison, Topeka and Santa Fe Railway	*941
110 Mile Creek:	
At western county boundary	*933
About 1.14 miles upstream of Union Pacific Railroad	*934
Maps available for inspection at the County Courthouse, Room 203, Ottawa, Kansas.	
Send comments to The Honorable Charles W. Mavity, Jr., Chairman, Board of Commissioners, Franklin County, County Courthouse, Ottawa, Kansas 66067.	
MAINE	
Burnham (Town), Waldo County	
Sebasticook River:	
Approximately 120 feet downstream of the corporate limits	*132
At the upstream corporate limits	*175
Twenty Five Mile Stream:	
At confluence with Sebasticook River	*145
At the upstream corporate limits	*172
Lake Winnecook: Entire shoreline within community	*180
Maps available for inspection at the Town Office, Burnham, Maine.	
Send comments to Ms. Carolyn Hamel, Administrative Assistant for the Town of Burnham, Waldo County, Town Office, Burnham, Maine 04922.	
Cranberry Isles (Town), Hancock County	
Atlantic Ocean	
Western Way:	
At Spurling Point	*11
At Great Head	*15
Gilley Thorofare:	
At Hadlock Point	*11
At eastern side of Sutton Island	*30
The Gut:	
At a point approximately 1,000 feet southeast of Fish Point	*15
At Fish Point	*18
Eastern Way:	
At northside of Sutton Island	*11
At southeast side of Bear Island	*15
Maps available for inspection at the home of Irene Bartlet, Town Clerk, Isleford, Maine.	
Send comments to The Honorable Maurice Philips, First Selectman of the Town of Cranberry Isles, Hancock County, P.O. Box, Isleford, Maine 04646.	
Hancock (Town), Hancock County	
Egypt Bay:	
Entire shoreline within community	*11
Taunton Bay:	
Entire shoreline within community	*11
Kilkenny Cove:	
Entire shoreline within community	*11
Skillings River:	
Entire shoreline within community	*11
Sullivan Harbor:	
At FR-7 extended	*12
At FR-28A extended	*22
Frenchman Bay:	
At Clam Ledge	*14
At Hancock Point	*24
Maps available for inspection at the Town Hall, Hancock, Maine.	
Send comments to The Honorable Chester Brown, Chairman of the Town of Hancock Board of Selectmen, Hancock County, P.O. Box 68, Hancock, Maine 04640.	
Isleboro (Town), Waldo County	
West Penobscot Bay:	
At Meadow Pond Road below Spragues Beach	*10
At west side of Job Island	*19
Penobscot Bay:	
On west side of Ryder Cove	*10
At east side of Lime Island	*22
Parker Cove:	
At west side of Hutchins Island	*11
At east side of Point Comfort	*18
Gilkey Harbor:	
At Shipyard Point	*10
Northwest of Minot Island	*15
Seal Harbor:	
At north side of Buring Point	*12
Southeast of Keller Point	*19
Maps available for inspection at the Town Office, Isleboro, Maine.	
Send comments to The Honorable George L. Martin, Jr., Isleboro Town Manager, Waldo County, Town Office, Isleboro, Maine 04848.	
Southwest Harbor (Town), Hancock County	
Atlantic Ocean	
The Narrows:	
At Valley Cove	*12
Western Way:	
At Norwood Cove	*11
At Clark Point	*16
Maps available for inspection at the Town Clerk's Vault, Town Office, Southwest Harbor, Maine.	
Send comments to The Honorable Eric Swanson, Chairman of the Town of Southwest Harbor Board of Selectmen, Hancock County, Town Office, P.O. Box 745, Southwest Harbor, Maine 04679.	
Stonington (Town), Hancock County	
Atlantic Ocean	
East Penobscot Bay:	
Along shoreline at Burnt Cove	*10
Approximately .7 mile west of intersection of West Stonington Road and Whitman Road	*18
Deer Island Thorofare:	
Along shoreline at Webb Cove	*10
Along south shoreline of Camp Island	*16
Maps available for inspection at the Town Hall, Town Clerk's Vault, Stonington, Maine.	
Send comments to The Honorable Roger Stone, Manager of the Town of Stonington, Hancock County, P.O. Box 8, Stonington, Maine 04681.	
NEW HAMPSHIRE	
Bridgewater (Town), Grafton County	
Pemigewassett River:	
At the downstream corporate limits	*471
At the upstream corporate limits	*483
Maps available for inspection at the Town Clerk's Vault, Bristol, New Hampshire.	
Send comments to The Honorable William Thistle, Chairman of the Town of Bridgewater Board of Selectmen, Grafton County, Whittemore Point Road, Star Route, Bristol, New Hampshire 03222.	
Ossipee (Town), Carroll County	
Bearcamp River:	
At the confluence with Lake Ossipee	*414
Approximately .62 mile upstream of corporate limits	*432
Maps available for inspection at the Selectmen's Office, Town Hall, Ossipee, New Hampshire.	
Send comments to The Honorable Ralph Elderidge, Chairman of the Town of Ossipee Board of Selectmen, Carroll County, P.O. Box 67, Ossipee, New Hampshire 03814.	
Wakefield (Town), Carroll County	
Branch River:	
Upstream of Union Meadows Dam	*499
Approximately 175 feet upstream of State Route 16	*511
Province Lake:	
Entire shoreline within community	*481
Belleau Lake:	
Entire shoreline within community	*579
Stump Pond:	
Entire shoreline within community	*560
Great East Lake:	
Entire shoreline within community	*575
Maps available for inspection at the Town Clerk's Office, Route 109, Sanbornville, New Hampshire.	
Send comments to The Honorable Robert Glidden, Chairman of the Town of Wakefield Board of Selectmen, Carroll County, P.O. Box 279, Route 109, Sanbornville, New Hampshire 03872.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW JERSEY	
Newfield (Borough), Gloucester County	
Burnt Mill Branch:	
At the downstream County boundary	*88
Approximately .3 mile upstream of CONRAIL	*94
Maps available for inspection at the Borough Clerk's Office, Newfield Municipal Building, Newfield, New Jersey.	
Send comments to The Honorable Everett E. Marshall, Mayor of the Borough of Newfield, Gloucester County, Municipal Building, Northwest Boulevard and Salem Avenue, Newfield, New Jersey 08344.	
NEW YORK	
Cameron (Town), Steuben County	
North Branch Tuscarora Creek:	
Downstream corporate limits	*1,439
Upstream corporate limits	*1,504
Canisteo River Tributary 17:	
Confluence with Canisteo River	*1,042
Approximately 0.52 mile upstream of State Route 432	*1,628
Canisteo River Tributary 22:	
Confluence with Canisteo River Tributary 25	*1,248
Approximately 0.91 mile upstream of confluence with Canisteo River Tributary 25	*1,703
Canisteo River Tributary 23:	
At confluence with Canisteo River Tributary 24	*1,319
Approximately 1.1 miles upstream of its confluence with Canisteo River Tributary 24	*1,737
Canisteo River Tributary 24:	
Approximately 70 feet downstream of Cameron—North Jasper Road	*1,248
Approximately 1.4 miles upstream of confluence of Canisteo River Tributary 23	*1,741
Canisteo River Tributary 25:	
Approximately 700 feet downstream of State Route 432	*1,052
At confluence of Canisteo River Tributaries 22 and 24	*1,248
Maps available for inspection at the Town Hall, Cameron Mills, New York.	
Send comments to The Honorable Robert McNutt, Cameron Town Supervisor, Steuben County, R.D. 3, Box 33, Cameron Mills, New York 14820.	
NORTH CAROLINA	
Columbus County (Unincorporated Areas)	
Lumber River:	
At State boundary	*61
About 1.44 miles upstream of U.S. Route 74	*85
Waccamaw River:	
At State boundary	*26
Just downstream of Lake Waccamaw	*42
Maps available for inspection at the Soil Conservation Service Office, 112 W. Smith Street, Whiteville, North Carolina.	
Send comments to The Honorable Roy Lowe, County Manager, Columbus County, County Administration Building, Whiteville, North Carolina 28472.	
Rockingham County, (Unincorporated Areas)	
Dan River:	
About 400 feet downstream of State Road 700	*507
About 500 feet upstream of confluence of Matrimony Creek	*528
Smith River:	
About 0.9 mile downstream of State Road 14	*552
About 2000 feet downstream of State Road 14	*557
Matrimony Creek:	
At mouth	*527
About 1700 feet upstream of Center Church Road	*571
Rock Creek:	
About 900 feet upstream of SR 1714	*569
About 1700 feet upstream of SR 1714	*576
Dry Creek:	
About 2100 feet downstream of Norfolk Southern Railway	*526
About 300 feet upstream of Main Street	*557
Reed Creek:	
About 3200 feet downstream of U.S. Route 311	*584
About 2800 feet upstream of U.S. Route 311	*587
Big Beaver Island Creek:	
About 3.7 miles upstream of mouth	*654
About 4.6 miles upstream of mouth	*663
Little Beaver Island Creek:	
About 2.0 miles upstream of mouth	*603
About 2.4 miles upstream of mouth	*610
Troublesome Creek:	
Just upstream of SR 2423	*707
About 1000 feet upstream of U.S. Route 220	*829
Maps available for inspection at the County Planning Office, County Complex, Wentworth, North Carolina.	
Send comments to The Honorable Hugh Griffin, County Manager, Rockingham County, Route 8, Box 701E, Reidsville, North Carolina 27320.	
Wilkes County (Unincorporated Areas)	
Yadkin River:	
About 2.16 miles downstream of State Road 115	*955
About 1,600 feet upstream of State Road 1143	*983
Maps available for inspection at the County Planner's Office, County Administration Building, 110 North Street, Wilkesboro, North Carolina.	
Send comments to The Honorable Cecil Wood, County Manager, Wilkes County, 110 North Street, Wilkesboro, North Carolina 28697.	
Yadkin County (Unincorporated Areas)	
Yadkin River:	
About 3100 feet downstream of confluence of Sandyberry Creek	*894
Just downstream of county boundary	*905
Deep Creek:	
Just upstream of Baltimore Road	*733
Just downstream of confluence of South Deep Creek	*740
South Deep Creek:	
Just upstream of confluence with Deep Creek	*740
Just downstream of Old Stage Road	*742
Sandyberry Creek:	
About 1650 feet downstream of State Road 67	*896
Just downstream of SR 1331	*948
Beaverdam Creek:	
About 1000 feet downstream of Caroline Street	*911
Just downstream of abandoned structure (about 1,550 feet upstream of Caroline Street)	*962
Just upstream of abandoned structure (about 1,550 feet upstream of Caroline Street)	*970
Just downstream of SR 1312	*1025
Cobb Creek:	
About 1450 feet upstream of SR 1311	*921
About 0.80 mile upstream of SR 1311	*937
Maps available for inspection at the County Manager's Office, County Office Building, Yadkinville, North Carolina.	
Send comments to The Honorable Charles Mashburn, County Manager, Yadkin County, P.O. Box 148, Yadkinville, North Carolina 27055.	
OHIO	
Coalton (Village), Jackson County	
Pigeon Creek:	
At downstream corporate limits	*692
About 2650 feet upstream of CSX railroad	*708
Maps available for inspection at the City Hall, Coalton, Ohio.	
Send comments to The Honorable Gerald R. Shook, Mayor, Village of Coalton, P.O. Box 67, Coalton, Ohio 45621.	
OKLAHOMA	
Bryan County (Unincorporated Areas)	
Mineral Bayou:	
Approximately 0.58 mile downstream of the confluence of Mineral Bayou Tributary 0	*576
Approximately 0.98 mile upstream of the confluence of Mineral Bayou Tributary 6	*669
Mineral Bayou Tributary 0:	
At its confluence with Mineral Bayou	*579
At State Routes 48 and 78	*631
Mineral Bayou Tributary 1:	
At confluence with Mineral Bayou	*598
Approximately 200 feet upstream of North First Avenue	*618
Mineral Bayou Tributary 4:	
At confluence with Mineral Bayou	*640
Approximately 810 feet upstream of U.S. Routes 69 and 75	*656
Mineral Bayou Tributary 5:	
At confluence with Mineral Bayou	*622
At U.S. Routes 69 and 75	*670
Mineral Bayou Tributary 5 South Branch:	
At confluence with Mineral Bayou Tributary 5	*622
Approximately 90 feet downstream of Missouri-Kansas-Texas Railroad	*639
Mineral Bayou Tributary 6:	
At the confluence with Mineral Bayou	*654
At Sunnyside Drive	*668
Chuckwa Creek:	
At the confluence with Mineral Bayou	*596
Approximately 1,900 feet upstream of confluence of Chuckwa Creek Tributary 4	*680
Chuckwa Creek Tributary 2:	
At confluence with Chuckwa Creek	*625
Approximately 1,125 feet upstream of the confluence of Chuckwa Creek Tributary 2 South Branch	*697
Chuckwa Creek Tributary 2 South Branch:	
At confluence with Chuckwa Creek Tributary 2	*691
Approximately 1,500 feet upstream of confluence with Chuckwa Creek Tributary 2	*697
Chuckwa Creek Tributary 3:	
At confluence with Chuckwa Creek	*622
Approximately 1.0 mile upstream of confluence with Chuckwa Creek	*712
Chuckwa Creek Tributary 4:	
At confluence with Chuckwa Creek	*671
At Wilson Road	*672
Red River:	
Approximately 2.2 miles downstream of State Route 120	*517
Approximately 2.0 miles upstream of U.S. Routes 69 and 75	*535
Maps available for inspection at the County Courthouse, 402 Evergreen, Durant, Oklahoma.	
Send comments to The Honorable Clinton Jones, Chairman of the Bryan County Commission, County Courthouse, 402 Evergreen, Durant, Oklahoma 74701.	
PACIFIC TRUST	
Islands of Saipan, Tinian and Rota, Commonwealth of the Northern Mariana Islands	
Tanapag Stream:	
Just upstream of Beach Road	*8
About 100 feet downstream of West Coast Highway	*19
Approximately 300 feet upstream of West Coast Highway	*25
Approximately 2,000 feet upstream of West Coast Highway	*50
Garapan Area:	
Approximately 400 feet from intersection of Hillside View Road and 4th Street	#1
San Roque Stream:	
Just upstream of West Coast Highway	#1
Lake Susupe:	
Located approximately 5,000 feet south of intersection of Wallace Highway and West Coast Highway	*6
Philippine Sea:	
At shoreline located approximately 4,100 feet northeast of crossing of West Coast Highway and San Roque Stream	*9
At shoreline located 900 feet north of crossing of West Coast Hi-way and San Roque Stream	*10
At shoreline located 1,200 feet southwest of Puntan Achugao 550 feet northwest of West Coast Highway	*7
At shoreline located at Unai Achugao 600 feet northwest of West Coast Highway	*12

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At shoreline located at Unai Tanapag approximately 2,400 feet southwest of confluence of Tanapag Stream and the Philippine Sea	*7
At shoreline located approximately 2,300 feet southwest of Puetton Tanapag 850 feet northwest of Beach Road	*10
At shoreline located 750 feet west of intersection of Hillside View Road and Beach Road	*7
At shoreline located approximately 3,000 feet south of intersection of Beach Road and Broadway	*10
At shoreline located 1,300 feet north of intersection of Kobler Road and Beach Road	*7
At shoreline located approximately 1,400 feet east 900 feet north of Puntan Agingan	*13
Maps are available for review at the Office of the Governor, Capitol Hill, Saipan, MP.	
Send comments to The Honorable Lorenzo Guerrero, Governor, Commonwealth of the Northern Mariana Islands, Office of the Governor, Capitol Hill, Saipan, MP 96950.	
SOUTH CAROLINA	
Clarendon County (Unincorporated Areas)	
Pocotaligo River:	
About 700 feet downstream of confluence of Ox Swamp	*81
About 1.3 miles upstream of confluence of Sammy Swamp	*99
Ox Swamp:	
At mouth	*81
At confluence of Davis Branch	*97
Loss Branch:	
At confluence with Ox Swamp	*97
About 1.3 miles upstream of Raccoon Road	*115
Davis Branch:	
At mouth	*97
Just downstream of State Highway 14	*141
Bell Branch:	
At mouth	*86
Just downstream of Branch View Drive	*130
Potato Creek:	
Just upstream of State Route 260 Dam	*79
Just downstream of State Highway 127	*98
Potato Creek Tributary No. 1:	
At confluence with Potato Creek	*79
About 0.74 mile upstream of State Route 260	*79
White Oak Creek:	
At mouth	*77
Just downstream of State Highway 345	*106
Tawcaw Creek:	
Just upstream of Marion Dam	*81
Just downstream of Interstate 95	*106
Little Tawcaw Creek:	
At mouth	*82
Just downstream of Service Road	*100
Ragins Branch:	
At mouth	*92
Just downstream of Interstate 95 on ramp	*110
Jacks Creek:	
Just upstream of Jacks Creek Dam	*80
Just downstream of State Highway 76	*87
Maps available for inspection at the County Courthouse, Manning, South Carolina.	
Send comments to The Honorable W. Ray Brown, County Administrator, Clarendon County, P.O. Box 486, Manning, South Carolina 29102.	
Darlington County (Unincorporated Areas)	
Jeffries Creek:	
At county boundary	*121
Just downstream of State Road 19	*167
High Hill Creek:	
At mouth	*78
Just downstream of Pisgah Road	*89
Black Creek:	
Just upstream of State Road 133	*103
Just downstream of State Road 50	*149
Bellyache Creek:	
At mouth	*103
Just downstream of Old Mill Dam	*131
Just upstream of Old Mill Dam	*136
About 0.95 mile upstream of State Road 786	*168
Swift Creek:	
About 1200 feet upstream of mouth	*81
Just downstream of State Road 13	*148
Maps available for inspection at the County Courthouse, Darlington, South Carolina.	
Send comments to The Honorable James Schafer, County Administrator, Darlington County, County Courthouse, Darlington, South Carolina 29532.	
TENNESSEE	
Blount County (Unincorporated Areas)	
Pistol Creek:	
At mouth	*835
About 3300 feet upstream of confluence of Springfield Branch	*841
Springfield Branch:	
At mouth	*839
About 3400 feet upstream of MacArthur Road	*840
Tennessee River:	
At downstream county boundary	*815
At confluence of Little River	*817
Little River:	
At mouth	*817
About 2.14 miles upstream of State Route 33	*842
Lackey Creek:	
At mouth	*816
Just downstream of Grey Ridge Road	*874
Lackey Creek Tributary:	
At mouth	*849
About 0.96 mile upstream of mouth	*892
Taylor Branch:	
At mouth	*829
Just downstream of Meadowview Road	*845
Maps available for inspection at the County Courthouse, Maryville, Tennessee.	
Send comments to The Honorable Robert Davis, County Executive, Blount County, County Courthouse, Maryville, Tennessee 37801-4987.	

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-year) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Arkansas	Centerton, city, Benton County.	McKisic Creek	Upstream side of State Route 102	None	*1,240
			At the County Route 539	None	*1,271
		Little Osage Creek	Approximately .25 mile downstream of State Route 102.	None	*1,265
			Downstream side of State Route 102	None	*1,275
Maps available for inspection at the City Hall, Centerton, Arkansas.					
Send comments to The Honorable Sherman Kinyon, Mayor of the City of Centerton, Benton County, City Hall, P.O. Box 208, Centerton, Arkansas 72719.					
Arkansas	Imboden town, Lawrence County.	Spring River	Approximately .6 mile downstream of the downstream corporate limits.	None	*285
			Approximately .2 mile upstream of the upstream corporate limits.	None	*291
Maps available for inspection at the City Hall, Imboden, Arkansas.					
Send comments to The Honorable Gene Beardon, Mayor of the Town of Imboden, Lawrence County, P.O. Box 367, Imboden, Arkansas 72437.					
Arkansas	Ravenden, town, Lawrence County.	Spring River	Approximately .2 mile upstream of Burlington Northern Railroad.	None	*305
			Approximately 1.83 miles upstream of County Route 22.	None	*312
Maps available for inspection at the City Hall, Ravenden, Arkansas.					
Send comments to The Honorable James Gibbons, Mayor of the Town of Ravenden, Lawrence County, Route 2, Box 31, Ravenden, Arkansas 72459.					
Massachusetts	Springfield, city, Hampden County.	North Brook	Upstream side of North Brook Parkway culvert	*182	*180
			Just downstream of Lumae Street culvert	*197	*138

PROPOSED MODIFIED BASE (100-year) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Planning Department and Department of Public Works Office, Springfield, Massachusetts. Send comments to The Honorable Mary Hurley, Mayor of the City of Springfield, Hampden County, City Hall, 36 Court Street, Springfield, Massachusetts 01103.					
Nevada	Elko County (unincorporated areas).	Woodhills Drain	At the City of Wells corporate limits, approximately 5,500 feet upstream of Tenth Street Extension.	None	*5,646
			Approximately 7,000 feet upstream of Tenth Street Extension, just upstream of the intersection of U.S. Highway 93 and an unnamed road.	None	*5,655
			Approximately 8,500 feet upstream of Tenth Street Extension, at the intersection of U.S. Highway 93 and an unnamed road.	None	*5,664
Maps available for review at the Elko County Department of Engineering, 569 Court Street, Elko, Nevada. Send comments to the Honorable Ernie Hall, Chairman, Elko County Board of Commissioners, Elko County Courthouse, room 106, Elko, Nevada 89801.					
New Jersey	Dover township, Ocean County.	Atlantic Ocean	Entire shoreline within community	*12	*13
			At intersection of Peterson Lane and Ocean Terrace.	None	*11
			At intersection of Eighth Avenue and Ocean Avenue.	None	*11
		Toms River	Approximately .4 mile upstream of Oak Ridge Parkway.	*23	*22
			At upstream corporate limits	None	*56
Maps available for inspection at the Township Clerk's Office, Municipal Building, 33 Washington Street, Toms River, New Jersey. Send comments to The Honorable Tom Renkin, Mayor of the Township of Dover, Ocean County, Mansfield Municipal Building, 33 Washington Street, Toms River, New Jersey 08753.					
Wyoming	City of Cheyenne Laramie County.	Crow Creek	Approximately 940 feet downstream of Morrie Avenue.	*6,009	*6,009
			At Deming Drive	*6,024	*6,022
			Just upstream of West 9th Street	*6,036	*6,035
			Just downstream of West 19th Street	*6,053	*6,055
			Approximately 300 feet upstream of Westland Road.	None	*6,072
		Dry Creek	Approximately 500 feet upstream of U.S. Highway 30.	None	*5,971
			Just upstream of Hilltop Road	*6,009	*6,011
			Approximately 400 feet upstream of Mountain Road.	*6,028	*6,029
			Just downstream of Seminole Road	*6,096	*6,097
			Just upstream of Education Drive	*6,131	*6,131
			Approximately 200 feet upstream of Vista Lane	*6,148	*6,146
		Western Hills Draw (North Fork Dry Creek).	Just upstream of Interstate Highway 25	*6,148	*6,151
			Just downstream of Evergreen Street	*6,166	*6,165
			At Ranger Drive	None	*6,177
			Approximately 100 feet upstream of Hawthorne Drive.	None	*6,212
Maps available for review at the City Engineer's Office, 2101 O'Neil Avenue, Cheyenne Wyoming. Send comments to The Honorable Gary Schaeffer, Mayor, City of Cheyenne, 2101 O'Neil Avenue, Cheyenne, Wyoming 82001.					

Issued: September 14, 1990.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-22412 Filed 9-20-90; 8:45 am]

BILLNG CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 86-01, Notice 2]

Passenger Automobile Average Fuel Economy Standards; Supplemental Notice Concerning Low Volume Exemptions

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Supplemental notice concerning petition for low volume exemption.

SUMMARY: In December 1986, NHTSA proposed to exempt Ferrari, as a "low volume manufacturer" of passenger automobiles, from the generally applicable average fuel economy standards for model years 1986-1988. In October 1989, NHTSA published a notice in which it determined, in light of Ferrari's common control relationship with Alfa Romeo, that Ferrari was ineligible for an exemption for model year 1987, but eligible for model year 1988. Further analysis by NHTSA now

calls into question the conclusion that Ferrari is eligible for exemption for model years 1986 and 1988. This analysis also calls into question a number of NHTSA's prior interpretations regarding eligibility for low volume exemptions of manufacturers that are controlled by, or are under common control with, other automobile manufacturers. This notice requests comments on Ferrari's eligibility for model year 1986 and 1988 exemptions, and on whether NHTSA should revise its approach to determining eligibility for low volume exemptions when there are multiple manufacturers within a control relationship.

DATES: Comments must be received on or before November 20, 1990.

ADDRESSES: Comments should refer to the docket and notice numbers and be submitted to: Docket Section, room 5109, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen P. Wood, Assistant Chief Counsel for Rulemaking, Room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2992.

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act ("Act"), 15 U.S.C. 2002(c), provides that certain manufacturers of passenger automobiles (referred to here as "low volume manufacturers") may be exempted from the generally applicable corporate average fuel economy ("CAFE") standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for the manufacturer and if NHTSA esablishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufactures (whether or not in the United States) fewer than 10,000 passenger automobiles in the model year ("MY") for which the exemption is sought and in the second model year preceding that model year.

In January 1986, Ferrari filed a petition requesting an exemption from the MY 1986–1988 CAFE standards for passenger cars. Although Ferrari's petition was not filed more than 24 months before the beginning of MYs 1986 and 1987, as is generally required by 49 CFR 525.6(b), the agency found that there was good cause for the late filing. Therefore, on December 10, 1986, NHTSA published a notice proposing to grant the requested exemptions for all three model years, and to establish alternative standards for Ferrari for each model year. 51 FR 44492.

That notice, which relied in large part on a 1978 interpretation involving Maserati, included a discussion of Ferrari's eligibility for a low volume exemption. (The 1978 interpretation, which was addressed to Howard E. Chase, Esq., is discussed below.) The agency stated the following in its December 1986 notice:

> By itself, Ferrari would qualify as a low volume manufacturer under section 502(c) of the Act, since it manufactures fewer than 4,000 passenger cars worldwide in any model year. However, section 502(c) of the Act specifies that any reference to automobiles manufactured by a manufacturer "shall be deemed to include all automobiles manufactured by persons who control * * * such manufacturer." Fiat Motors, which produces many more than 10,000 automobiles in each model year, owns 50 percent of Ferrari. When Ferrari originally applied for a low volume exemption under section 502(c) in 1977, NHTSA found that 50 percent ownership of Ferrari by Fiat was conclusive evidence that Fiat controlled Ferrari for purposes of section 503(c) of the Act. Accordingly, the productions of Fiat and Ferrari were combined for the purposes of Title V of the Act, pursuant to section 503(c). When the combined production of Fiat and Ferrari were considered together, Ferrari was not eligible to apply for a low volume exemption under section 503(c).
>
> This situation was unchanged until Fiat withdraw from the U.S. market at the end of the 1982 model year. Fiat has not exported any of its vehicles to the United States since that date. In response to this changed situation, Ferrari asked NHTSA in November, 1984 to change its previous opinion that Ferrari's production would be combined with Fiat's. This request was based on the language of section 501(9) of the Act. That section reads as follows: "The term 'manufacture' (except for purposes of section 502(c)) means to produce or assemble in the customs territory of the United States, or to import." Ferrari argued that since Fiat did not produce or assemble any vehicles in the customs territory of the United States or import any vehicles into the United States, it did not "manufacture" any vehicles for the purposes of section 503(c). Accordingly, Ferrari urged that it should now be eligibile to apply for a low volume exemption under section 502(c) of the Act. NHTSA sent an interpretation to Ferrari in February, 1985, stating that the agency agreed that Ferrari was now eligible to apply for a low volume exemption.

On January 1, 1987, Fiat acquired 100 percent ownership of Alfa Romeo. As a result of the acquisition, both Ferrari and Alfa Romeo were under the common control of Fiat beginning with MY 1987. In a notice published in the Federal Register (54 FR 40665, 40667) on October 3, 1989, NHTSA discussed the effect of Fiat's acquisition of Alfa Romeo on Ferrari's eligibility for low volume exemptions. The agency stated:

> That acquisition rendered Ferrari ineligible under Title V for an exemption for (MY 1987). Section 503(c) requires all of the automobiles imported by Alfa Romeo to be added to those manufactured by Ferrari to determine whether Ferrari is eligible for a low volume exemption for MY 1987 and thereafter. Since Alfa Romeo imported 8,930 cars into the United States for MY 1987, Alfa Romeo would be considered a "manufacturer" for purposes of section 502(c). Further, because Alfa Romeo and Ferrari are under the common control of Fiat, Alfa Romeo's 8,930 import cars would be added to Ferrari's annual world wide production in order to determine Ferrari's low volume manufacturer status. The resulting total exceeds the 10,000 vehicle limitation on eligibility. Accordingly, Ferrari is statutorily ineligible for a low volume exemption for MY 1987.
>
> However, in MY 1988, Alfa Romeo imported only 4,166 cars into the United States. This figure, even when combined with Ferrari's worldwide production in 1988 of 3,996, would not exceed the 10,000 vehicle limitation. Accordingly, Ferrari remains eligible for an exemption for MY 1988.

In the October 1989 notice, which sought to follow past precedent while addressing a somewhat different factual situation, the agency thus considered Ferrari's eligibility for a low volume exemption by counting the petitioner's (Ferrari's) worldwide production and adding to that figure the number of vehicles imported by manufacturers within a control relationship with Ferrari (Alfa Romeo).

Further analysis by NHTSA now calls into question the conclusion that Ferrari is eligible for exemptions for MY 1986 and 1988. As discussed below, the agency has tentatively decided that Ferrari is not eligible for a low volume exemption for those model years, regardless of whether firms under common control with Ferrari imported vehicles into the United States, because the total number of vehicles manufactured worldwide by Ferrari and other firms within the same control relationship exceeded 10,000.

The first time NHTSA addressed the issue of which vehicles should be counted among those of multiple manufacturers within a control

relationship for purposes of determining eligibility for a low volume exemption was in the letter addressed to Howard E. Chase, Esq., cited above. That letter, which was dated July 26, 1978, addressed the eligibility of Maserati for a low volume exemption. Maserati itself produced fewer than 10,000 cars worldwide. However, it was under common control with Innocenti, a company which produced more than 10,000 cars annually but did not import any into the U.S.

The Chase letter addressed the relationship of sections 501(9), 502(c), and 503(c). NHTSA stated the following:

> The key question * * * involves section 503(c). The question is whether "manufacture" in section 503(c), as that section applies to 502(c), means "to produce or assemble in the customs territory of the United States, or to import" or means "to produce or assemble, regardless of the geographical location of the act." The former, restricted definition is given in section 501(9) and applies, except for the purposes of section 502(c), to all of Title V. The latter, unrestricted definition is derived from the phrase "manufactured (whether or not in the United States)" in the first sentence of section 502(c) and applies for the purposes of that section.

In the Chase letter, NHTSA interpreted the word "manufacture," as used in section 503(c) and applied to section 502(c), to have the "restricted" meaning. The agency therefore concluded that the Innocenti automobiles would not be counted together with the Maseratis for the purpose of determining eligibility for an exemption under section 502(c).

Upon further consideration, NHTSA now believes that the Chase letter did not give enough weight to the language in section 501(9) that expressly provides that the "restricted" definition of that subsection does not apply with respect to section 502(c). Moreover, the agency has concluded that the Chase interpretation leads to a result that is inconsistent with Congressional intent.

The legislative history of section 502(c) demonstrates that Congress authorized low volume exemptions to provide relief for small manufacturers. For example, the House Report discussed this provision under the heading "small manufacturers." H.R. Rep. No. 94–340, 94th Cong., 1st Sess. 90 (1975). The Conference Report, in describing the Senate version of this provision, described it as providing the Secretary authority to exempt "small (less than 10,000 vehicles per year) manufacturers" from passenger car standards. S. Rep. No. 94–516, 94th Cong., 1st Sess. 151 (1975).

Congress also indicated that it was affording this relief to "small" manufacturers because of their limited flexibility to improve fuel economy. For example, the discussion in the Senate Report of an earlier version of section 502(c) stated that "the purpose of the exemption is to provide relief for the special purpose manufacturers, like the Checkers Motor Corporation, which manufacture automobiles for a rather narrow purpose, and are limited in their flexibility to improve fuel economy." S. Rep. No. 94–179, 94th Cong., 1st Sess. 21 (1975).

By virtue of its corporate relationship with Fiat (and Alfa Romeo), Ferrari has considerable flexibility to improve fuel economy, particularly given the size and manufacturing expertise of those firms. The Fiat Group is the world's seventh largest producer of passenger cars, producing about 1.5 million passenger cars per year with a high level of technology such as continuously variable transmissions and direct injection diesel engines on some models sold in Europe. Fiat builds a range of cars from some of the smallest most fuel-efficient cars in the world to the very expensive, ultra-high performance Ferrari models. Alfa Romeo itself is not a small manufacturer, having produced 229,000 cars in 1988.

The clear purpose of providing a special worldwide definition of "manufacture" for section 502(c), as opposed to the more limited definition set forth in section 501(9) that is applicable to the rest of the statute, was to prevent large foreign manufacturers from obtaining the benefits of low volume exemptions by virtue of importing only a small number of cars in the United States. Congress did not contemplate that lower, alternative standards would be available to firms under the control of large foreign automobile manufacturers, simply because those manufacturers were established as separate corporate entities.

NHTSA is also concerned that its prior approach may inappropriately confer a competitive advantage on foreign manufacturers. A U.S. subsidiary of General Motors, Ford, or Chrysler that produced sports cars obviously could not qualify for a low income exemption, yet a subsidiary of Fiat has been able to qualify under the agency's prior approach.

Based on its analysis, NHTSA has tentatively concluded that all cars produced worldwide by all manufacturers within a control relationship should be counted for purposes of low volume exemption eligibility. Thus, in considering whether Ferrari is eligible for a MY 1986 low volume exemption, the agency would count, in addition to the worldwide production of Ferrari itself, the worldwide production of Fiat (which controls Ferrari). Similarly, in considering whether Ferrari is eligible for a MY 1988 low volume exemption, the agency would count, in addition to the worldwide production of Ferrari, the worldwide production of Fiat and Alfa Romeo (which is under common control with Ferrari). The agency believes that this proposed interpretation would give appropriate weight to the language in section 501(9) that expressly provides that the "restricted" definition of that subsection does not apply with respect to section 502(c).

Since this result would reverse a longstanding interpretation, NHTSA has decided to request comments on its new approach. The agency will review those comments prior to reaching a final conclusion about the interpretation proposed above, and will defer further action on all pending petitions for low volume exemption by Ferrari and others in similar circumstances. NHTSA believes that Maserati is the only other company that may be affected by this approach.

With respect to the date this revised interpretation would become effective, NHTSA has tentatively concluded that it would apply it to all petitions that have not yet been finally ruled upon. The agency would not seek to retoractively withdraw exemptions that would not have been granted under the new interpretation.

The agency considered applying the old interpretation to petitions that had already been filed but not yet been acted upon. However, if the agency does finally determine that the old interpretation is incorrect and inconsistent with Congressional intent, it would be inappropriate to continue to apply it to pending petitions.

NHTSA also notes that granting Ferrari an exemption for MY 1988 would create difficulties that were not present with earlier exemptions granted under the Chase approach. In those prior cases, only one firm within the control relationship imported any vehicles into the United States. However, in MY 1988, both Ferrari and Alfa Romeo imported cars.

Because of the operation of section 503(c), Ferrari and Alfa Romeo are in essence the same manufacturer for purposes of CAFE standards. As discussed below, under section 502, the same CAFE standard should apply to both manufacturers together. This is true for both generally applicable standards and alternative standards.

Section 502(a), in setting forth the generally applicable standard, specifies a standard for "passenger automobiles manufactured by any manufacturer." Section 502(c)(1), in setting forth requirements relating to low volume exemptions, specifies that such exemptions may not be granted unless the Secretary establishes, by rule, alternative average fuel economy standards for "passenger automobiles manufactured by manufacturers" which receive exemptions under this subsection. Under section 503(c)(1), any reference to "automobiles manufactured by a manufacturer" is deemed to include all automobiles manufactured by persons who control, are controlled by, or are under common control with, such manufacturer. Thus, any CAFE standard which applies to Ferrari should apply to Ferrari and Alfa Romeo together. Therefore, granting Ferrari a low volume exemption in MY 1988 would create a paradox, since Alfa Romeo is undisputably not eligible for an exemption.

A similar paradox would arise in the context of determining compliance with the statute. Under section 503(a), neither manufacturer has an independent CAFE value. Instead, by operation of section 503(c), they share a CAFE value that is based on the total volume of cars manufactured by both companies.

Thus, a decision to grant an exemption to Ferrari while applying the generally applicable standard to Alfa Romeo would cause compliance difficulties by compelling the agency to try to compare a combined CAFE value to separate CAFE standards. Such difficulties did not arise earlier, under the exemptions granted under the Chase approach, since no company that received an exemption was in a control relationship with another company that imported vehicles into the United States during the model years in question. NHTSA notes that the fact that such problems can occur under the Chase approach is another indication that the approach is incorrect.

Interested persons are invited to submit comments. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Dated: September 17, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-22418 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 55, No. 184
Friday, September 21, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Acceptance of 60-acre Donation and Extension of Mount Sneffels Wilderness Area, Uncompahgre NF, CO

AGENCY: Forest Service, USDA.

ACTION: Notice of land donation acceptance and boundary extension.

SUMMARY: The Secretary of Agriculture has accepted a 60-acre donation from Hal Hall of Ouray, Colorado, and extended the Mount Sneffels Wilderness Area to include this 60-acre parcel.

EFFECTIVE DATE: The acceptance of this donation and the extension of Mount Sneffels Wilderness Area were effective July 7, 1990.

FOR FURTHER INFORMATION CONTACT: Gordon H. Small, Director, Lands, USDA, Forest Service, P.O. Box 96090, Washington, DC 20090–6090, (202) 453–8248 or R. E. Greffenius, Forest Supervisor, 2250 Highway 50, Delta, Colorado 81416, (303) 874–7691.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of section 6(a) of the Wilderness Act of September 3, 1964 (78 Stat. 890), the Secretary of Agriculture has accepted a 60-acre donation adjacent to the Mount Sneffels Wilderness Area, Uncompahgre National Forest, Colorado, Notification to the President of the Senate and the Speaker of the House of Representatives was provided on May 2, 1990. Land accepted by the Secretary of Agriculture under section 6(a) becomes part of the wilderness area involved. A copy of the Secretary's acceptance which includes the legal description of the lands which were donated and which are now a part of the Mount Sneffels Wilderness Area appears at the end of this notice.

Dated: September 13, 1990.

Larry D. Henson,

Associate Deputy Chief.

Acceptance of 60-Acre Donation and Extension of Mount Sneffels Wilderness Area

Uncompahgre National Forest, CO

Pursuant to the authority granted to the Secretary of Agriculture by section 6(a) of the Wilderness Act of September 3, 1964 (Pub. L. 88–577, 78 Stat. 890; 16 U.S.C. 1121), I hereby accept a 60-acre donation of land described below which will become part of the Mount Sneffels Wilderness Area, Uncompahgre National Forest, Colorado.

T44N, R10W, NMPM, San Miguel County, Colorado
Section 35: S½SW¼NW¼ and the NW¼ NW¼.

This acceptance shall be effective 60 days after notice has been given to the President of the Senate and Speaker of the House of Representatives as provided in section 6(a) of the Wilderness Act of September 3, 1964.

Dated: May 2, 1990.

Clayton Yeutter,

Secretary.

[FR Doc. 90–22455 Filed 9–20–90; 8:45 am]

BILLING CODE 3410–11–M

Forest Service

Round Valley Timber Sale(s)

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: Notice is hereby given that the USDA Forest Service will prepare an Environmental Impact Statement to disclose the environmental consequences of the proposed Round Valley Timber sale(s) located on the Greenville Ranger District, Plumas National Forest, Plumas County, California. The Round Valley Timber Sale(s) is approximately 3 air miles southeast of the town of Greenville, California in T. 26 N. and Range 9 E., Mt. Diablo Meridian. The Forest Service invites written comments on this proposal. A full environmental analysis will be conducted. The Draft Environmental Impact Statement (DEIS) will be published in March 1992 and the Final Environmental Impact Statement (FEIS) will be available for review in August 1992.

DATES: Comments concerning the scope of analysis should be received in writing by November 15, 1990.

ADDRESSES: Submit written comments and suggestions to Michael R. Williams, District Ranger, P.O. Box 329. Greenville, CA 95947.

FOR FURTHER INFORMATION CONTACT: Conrad P. Nussbaumer, Sale Planning Forester, phone 916-284-7216. (person who can answer most of the question on the project).

SUPPLEMENTARY INFORMATION: The Plumas National Forest Land and Resource Management Plan provides direction for management of the project area located within Management Area 27, Indian Valley. The Forest Plan has designated the area to be managed under the Timber Emphasis, Bald Eagle, Visual Retention, Developed Recreation and Visual Partial Retention Prescriptions. The proposed action would use a variety of logging systems to harvest approximately 6 million board feet of timber. A range of alternatives for this project will be considered, one of which would be a no action alternative. Other alternatives include base, multi-resource and helicopter emphasis alternatives.

Mary J. Coulombe, Forest Supervisor, Plumas National Forest, Quincy, California, is the responsible official.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). Some initial scoping and analysis have been completed for this proposed project. Comments received during the original scoping will be retained and considered in the analysis. The forest service will be seeking information, comments and assistance from federal, state and local agencies, other individuals and organization who may be interested in or affected by the proposed acton. This input will be used in preparation of the DEIS. The scoping process includes:

1. Identifying potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analaysis.

4. Exploring additional alternatives.

5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

6. Determining potential cooperating agencies and task assignments.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the proposed timber sale area.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 1992. At that time EPA will publish a notice of availability of the DEIS in the **Federal Register**. The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency's Notice of Availability appears in the **Federal Register**. It is very important that those interested in the management of the Round Valley Timber Sale(s) participate at that time. To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

After the comment period for the DEIS ends, the comments received will be analyzed and considered by the Forest Service in preparation of the FEIS. The FEIS is scheduled to be completed by August 1992. In the FEIS the Forest Service is required to respond to comments received (40 CFR 1503.4). The responsible official will consider comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR part 217.

Dated: May 23, 1990.

Mary J. Coulombe,

Forest Supervisor.

[FR Doc. 90-22351 Filed 9-20-90; 8:45 am]

BILLING CODE 3410-11-M

Exemption; Hot Springs and Greenhorn Ranger District, Sequoia National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal, Hot Springs and Greenhorn Ranger Districts, Sequoia National Forest.

SUMMARY: The Forest Service is exempting from appeal any decisions related to the salvage of fire-damaged timber within sale area boundaries of the Tip Top and Vincent Timber Sales on the Hot Springs Ranger District; and on the Deep 8% Timber Sale on the Greenhorn Ranger District, Sequoia National Forest. These sale areas include approximately 2,800 acres contained within the 24,200 acre Stormy Complex fire. The fire was started by lightning on August 5, 1990. The Forest Service proposes to modify timber sale contracts to include additional fire-damaged timber.

Inclusion of catastrophic fire-damaged timber within these timber sale areas is allowed under standard contract provision B8.33, Modification for Catastrophe. The Tip Top and Vincent sale areas proposed for inclusion are located approximately 6 air miles southeast of California Hot Springs, California, and are contained in all or part of sections 5, 6, 7, 8, 16, 17, 18, 19, and 20 of T24S, R32E MDB&M. The Deep 8% sale area proposed for inclusion is locatd approximately 9 air miles northwest of Lake Isabella and is contained in all or part of sections 5, 6, 7, 8, 16, 17, 20, and 21 of T25S, R32E, MDB&M.

The Hot Springs Ranger District proposes to harvest approximately 11 million board feet (MMBF) of fire-damaged timber over and beyond that which is currently designated for harvest in existing timber sale contracts. The Greenhorn Ranger District proposes to harvest approximately 2 MMBF of fire-damaged timber over and beyond that which is currently designated for harvest in existing timber sale contracts. Terrain is suitable for tractor and cable yarding systems. Some additional temporary access road construction and the reconstruction of some existing roads will be required. Damaged timber will be harvested using regeneration mosaic and clearcutting prescriptions.

Regeneration mosaics will be prescribed where portions of an area have been burned, and there is the opportunity to save and protect the residual unburned and lightly burned trees. The areas that will be proposed for clearcutting have been burned at such a high intensity that essentially all trees are either dead or expected to die within the next few months. All proposed harvest areas are designated as suitable land for timber harvest in the Sequoia National Forest Land and Resource Management Plan.

The value and volume of lumber recovered from burned timber declines rapidly as the wood deteriorates. Thus, the prompt removal of affected timber minimizes value loss. If dead timber is not removed promptly, the decline in value caused by deterioration will prevent economical removal.

If not removed in timber salvage operations, excessive numbers of dead trees can lead to heavy fuel concentrations. This compounds future fire suppression difficulties, which in turn increases the risk of further severe watershed disturbance. In some areas ground cover was completely consumed, effectively preparing the ground for the planting of trees. But to be effective in the long term, standing dead and damaged timber must first be removed. If removal is delayed, the site preparation provided by the fire will be lost due to shrub and herbaceous regrowth, further delaying the time at which a new timber stand can be established. Prompt timber harvest can initiate watershed recovery in the shortest time possible.

Decisions on the proposed salvage are expected to be made by September 30, 1990. If delayed because of administrative appeal, it is likely that the onset of winter weather would prevent salvage until the spring of 1991. With this kind of delay an estimated 10% of the wood volume would be lost to deterioration; and some portions of watershed restoration and reforestation could be delayed by as much as three years.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt from appeal any decisions relating to the harvest and restoration of lands following fire-induced timber mortality within the Tip Top and Vincent Timber Sale areas on the Hot Springs Ranger District and the Deep 8% Timber Sale on the Greenhorn Ranger District, Sequoia National Forest. My decision is conditional upon the Forest Supervisor determining through analysis that there is good

cause to proceed with these projects to recover value in dead and dying timber and to rehabilitate National Forest lands affected by catastrophic fire.

Environmental documents under preparation will address the effects of the proposed action on the environment, will document appropriate levels of public involvement, and will address the issues raised by the public.

EFFECTIVE DATE: This decision will be effective September 21, 1990.

FOR FURTHER INFORMATION CONTACT: Questions about this decision should be addressed to Ed Whitmore, Timber Staff Director, Pacific Southwest Region, USDA Forest Service, 630 Sansome Street, San Francisco, CA 94111, (415) 705–2648, or James A. Crates, Forest Supervisor, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257, (209) 784–1500.

ADDITIONAL INFORMATION: A Decision Notice and Finding of No Significant Impact (DN/FONSI), based on the Tip Top Timber Sale Environmental Assessment (EA), was signed on August 26, 1986 by Forest Supervisor James A. Crates. This timber sale for 8.8 MMBF, covering approximately 217 acres of tractor and cable yarding ground, was awarded to Sierra Forest Products Co. Inc. on April 12, 1988. A DN/FONSI for the Vincent Timber Sale (Frog Compartment EA) was signed on January 29, 1990 by Forest Supervisor James A. Crates. This timber sale for 5.47 MMBF, covering approximately 140 acres of tractor and cable ground, was awarded to Sierra Forest Products Co. Inc. on July 23, 1990. A DN/FONSI for the Deep 8% Timber Sale EA, was signed on March 1, 1989 by Forest Supervisor James A. Crates. This sale was for 6.6 MMBF, covering 687 acres of tractor ground and 44 acres of cable yarding ground, was awarded to Sierra Forest Products Co. Inc. on September 29, 1989.

Environmental analyses for including additional salvage volume in these contracts will be documented in addenda to the original timber sale environmental documents. Pursuant to 40 CFR 1501.7, scoping is currently being conducted on these projects by the Interdisciplinary Team to determine the issues to be addressed in the environmental analyses. The environmental documents will be available for public review at the Supervisor's Office, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257.

Catastrophic damage caused by the Stormy Complex Fire covers approximately 24,200 acres. Within this area, trees containing approximately 150 MMBF of salvable timber are severely damaged or killed. Selling value (stumpage) of salvage volume is estimated at 9 million dollars. This does not include the many jobs and thousands of dollars in benefits that are realized in related service, supply and construction industries. An estimated volume of 13 MMBF with a value of $800,000, is practical to salvage within the 2,800 acres included in this exemption.

Salvage projects are not expected to adversely affect snag-dependent wildlife species. Snags will be left in numbers sufficient to meet or exceed guidelines stated in the Sequoia National Forest Land and Resource Management Plan. No giant sequoia groves or threatened or endangered plants or animals are located in the project areas. Two "sensitive" species, spotted owl [*Strix occidentalis occidentalis*) and Weston Mariposa Lily [*Calochortus coeruleus* var. *westonii*) are found within the existing sale area boundaries. Habitat for these species is protected under existing timber sale contract terms. Protection will be expanded to include all additional salvage logging. Other sensitive plants are know to exist within the burned area, but outside of existing timber sale boundaries. Sequoia National Forest Riparian Standards and Guidelines will be applied insofar as practicable in light of fire-related changes to soil and vegetation.

Delays for any reason could jeopardize chances of accomplishing recovery and rehabilitation of the damaged resources within the timber sale project areas during the rest of this field season. These delays would result in significant volume and value losses.

Dated: September 14, 1990.

David M. Jay,

Deputy Regional Forester.

[FR Doc. 90–22398 Filed 9–20–90; 8:45 am]

BILLING CODE 3410–11–M

ARCTIC RESEARCH COMMISSION

Meeting

Notice is hereby given that the United States Arctic Research Commission will hold its 22nd Meeting in Anchorage, Alaska on October 15–16, 1990. On Monday, October 15, the morning session will start at 9 a.m. at the Museum of History and Fine Arts, 123 Seventh Avenue, Anchorage, Alaska. A Public Meeting Session will be held starting at 1:15 p.m. in the Museum Auditorium. On Tuesday, October 16, 1990, the 22nd Meeting Business Session will continue, starting at 8:30 a.m. The Commission will meet in Executive Session following the conclusion of regular business at 1 p.m. Agenda items include: (1) Chairman's Report; (2) Comments from the Interagency Arctic Research Policy Committee; (3) Comments from the Alaska Congressional Delegation; (4) Comments from the Arctic Research Consortium of the United States; (5) Status of New Administrative Support Arrangements; (6) Status of International Arctic Activities; and (7) Research and Development for Alaska's Commercial Fishery. The Public Meeting will receive presentations on (8) Oil Development Plans; (9) Oil Spill Clean Up in Ice-Infested Waters; and (10) Research on Infrastructure Degradation in the Arctic. The Business Session will continue with (11) Goals and Objectives Report—1990; (12) Annual Report; (13) Greenland Recommendations; (14) Future Meetings.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

CONTACT PERSON FOR MORE INFORMATION: Philip L. Johnson, Executive Director, U.S. Arctic Research Commission, (202) 371–9631 or TDD (202) 357–9867.

Philip L. Johnson,

Executive Director, U.S. Arctic Research Commission.

[FR Doc. 90–22383 Filed 9–20–90; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Senior Executive Service: Performance Review Board

This notice announces membership of the Departmental Performance Review Board (PRB) in the Department of Commerce. The purpose of the Departmental PRB is to review the performance of appointing authorities and their immediate deputies who are in the SES and SES members whose ratings are initially prepared by their respective appointing authorities.

These Departmental PRB members are appointed for a two year term. The list of members is as follows:

	Term expiration
Assistant Secretary for Administration: Otto J. Wolff, Deputy Assistant Secretary, Office of Assistant Secretary for Administration (NC)	11/92

	Term expiration
Joseph C. Brown, Deputy Director, Office of Personnel and Civil Rights (C)	11/92
Mark E. Brown, Director, Office of Budget (C)	11/92
Mary Ann Fish, Director, Office of White House Liaison (NC)	11/92
General Counsel:	
Stephen J. Powell, Chief Counsel for Import Administration (C)	11/92
Dan Haendel, Deputy General Counsel (NC)	11/92
Minority Business Development Agency:	
William H. Bailey, Associate Director for Operations (NC)	11/92
Economics and Statistics Administration:	
C. Louis Kincannon, Deputy Director Bureau of the Census (C)	11/92
Allan H. Young, Director, Bureau of Economic Analysis (C)	11/92
Harry A. Scarr, Statistical Coordinator for the Under Secretary (C)	11/92
Frederick T. Knickerbocker, Executive Director (C)	11/92
Susanne H. Howard, Associate Under Secretary for External Relations (NC)	11/91
Technology Administration:	
Lyle Schwartz, Director, Materials Science and Engineering Laboratory (NIST) (C)	11/91
Guy Chamberlin, Director of Administration (NIST) (C)	11/91
George A. Sinnott, Associate Director for Technical Evaluation (NIST) (C)	11/92
Lura Powell, Deputy Director, Center for Chemical Technology (NIST) (C)	11/91
Mark S. Lieberman, Deputy Assistant Secretary for Technology Policy (NC)	11/92
National Telecommunications and Information Administration:	
Dennis R. Connors, Director, Office of Policy Coordination and Management (C)	11/91
Charles M. Rush, Associate Administrator, Office of International Affairs (C)	11/92
Economic Development Administration:	
Craig Smith, Deputy Director for Grant Programs (C)	11/92
Ruth L. Kleinfeld, Deputy Assistant Secretary for Loan Programs (NC)	11/92
International Trade Administration:	
Saul Padwo, Director, Office of Trade Promotion (C)	11/91
Peter B. Hale, Director, Office of Western Europe (C)	11/91
Timothy J. Hauser, Deputy Assistant Secretary for Planning (C)	11/91
Henry P. Misisco, Director, Office of Automotive Industry Affairs (C)	11/91
Sandra B. Shumway, Managing Director, Export Promotion Services (NC)	11/91
James C. Lake, Deputy Assistant Secretary for Trade Development (NC)	11/91
Joseph A. Vasquez, Deputy Assistant Secretary for U.S. and Foreign Commercial Service (NC)	11/91
Augustine Tantillo, Deputy Assistant Secretary for Textiles and Apparel (NC)	11/92
National Oceanic and Atmospheric Administration:	
Thomas Pyke, Assistant Administrator for Satellite, Data and Information Services (C)	11/92
James W. Brennan, Deputy General Counsel for Policy, Research, Services and Coastal Zone (C)	11/92
Dennis F. Geer, Director, Office of Administration (C)	11/92
Ronald D. McPherson, Director, National Meteorological Center (C)	11/92
Thomas A. Campbell, General Counsel, Office of the General Counsel (NC)	11/92
Virginia K. Tippie, Assistant Administrator for Ocean Services and Coastal Zone Management (NC)	11/92
Patent and Trademark Office:	
William L. Lawson, Administrator, Patent Documentation Organization (C)	11/91
Stephen G. Kunin, Group Director (C)	11/91
Bureau of Export Administration:	
John A. Richards, Deputy Assistant Secretary for Industrial Resources Administration (C)	11/91
James LeMunyon, Deputy Assistant Secretary for Export Administration (NC)	11/92

Dated: September 13, 1990.

Thomas J. Lambiase,

Executive Secretary, Departmental Performance Review Board, Department of Commerce.

[FR Doc. 90-22400 Filed 9-20-90; 8:45 am]

BILLING CODE 3510-BS-M

Minority Business Development Agency

Business Development Center Applications; Texas

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a three-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $231,200 in Federal funds and a minimum of $40,800 in non-Federal contributions for the budget period January 1, 1991 to December 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the McAllen Standard Metropolitan Statistical Area (SMSA).

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes, and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms, offer a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria; the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive a least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate after the initial competitive year for up to two additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is October 24, 1990. Applicants should mail the completed applications to the office specified in the project announcement. MBDA will accept only those applications (1) which are received by the closing date or (2) which show acceptable evidence of mailing on or before the closing date. Acceptable evidence consists of (1) a legible U.S. Postal Service postmark or (2) a legible mail or courier service receipt dated on or before the closing date. Applications must be postmarked on or before October 24, 1990.

Anticipated processing time of this award is 120 days.

ADDRESSES: Dallas Regional Office, 1100 Commerce Street, suite 7B23, Dallas, Texas 75242–0790, (214) 767–8001.

FOR FURTHER INFORMATION CONTACT: Yvonne Guevara, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. A pre-bid conference will be held. Please call Ms. Guevara to be advised of date, time and place.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Notice: Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of are made to pay the debt.

Notice: Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Notice: Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Notice: Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

Notice: A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Dated: September 17, 1990.

Victor Casaus,

Acting Regional Director, Dallas Regional Office.

[FR Doc. 90–22399 Filed 9–20–90; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meetings and Public Hearing

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will hold public meetings on September 26–27, 1990, at the Ocean Gate Motor Inn, Route 27, Southport, MA, telephone: (207) 633–3321. In conjunction with the meeting, the National Marine Fisheries Service (NMS) will hold a public hearing on September 26 at 1:30 p.m., to discuss the closure of the Georges Bank surf clam and ocean quahog fishery because of paralytic shellfish poisoning. On the first day the meeting will begin at 10 a.m., and on the second day the meeting will begin at 9 a.m.

The Groundfish and Lobster Committees will also report on the first day. Additionally, Council priorities and the rising cost of fuel as it relates to fisheries management will be discussed. On September 27 at 11 a.m., the Council will hold a public hearing to discuss a definition of overfishing for white marlin, blue marlin, sailfish and longbill spearfish for inclusion in the Fishery Management Plan (FMP) for Atlantic Billfishes. A review of the Gulf of Maine Program's Action Plan will be presented by Melissa Waterman of Maine's State Planning Office on the second day of the meeting.

Also, on this day the Surf Clam Committee will report and the Large Pelagics Committee will discuss the status of Swordfish Amendment #1, recent Congressional hearings and NMFS's Shark Emergency Action; the Sea Scallop Committee will update the Council on the status of Amendment #4 to the Scallop Plan; and Dr. Dennis Nixon will brief the Council on the National Research Council's fishing vessel safety project.

On the second day, the Council will hear the Groundfish and Herring Committees' reports. In addition, there will be a public hearing on possible area closures because of problems with high discards of undersized yellowtail flounder. Also, Mr. James Dobbin will discuss ocean planning in the Gulf of Maine.

For more information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone: (617) 231–0422.

Dated: September 17, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–22358 Filed 9–20–90; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number SN 7–305,458 "Isolation and Characterization of a Plasma Protein Which Binds to Activated C4 of the Classical Complement Pathway" to Genpath Therapeutics, Inc., having a place of business in New York City, NY 10017. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

This invention covers a process for the isolation and purification for a substantially pure, single chain plasma protein of approximately 120 kDa which binds to C4 and C3 of the classical pathway and comprising several steps to accomplish it.

The availability of the invention for licensing was published in the **Federal Register**, Vol. 55, No. 64 (1990).

Inquiries, comments and other materials relating to the contemplated license must be submitted to Girish C. Barua, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

[FR Doc. 90–22456 Filed 9–20–90; 8:45 am]

BILLING CODE 3510–04–M

COMMISSION ON AGRICULTURAL WORKERS

Hearing

AGENCY: Commission on Agricultural Workers.

ACTION: Announcement of hearing.

SUMMARY: The Commission on Agricultural Workers will hold an agricultural labor hearing in Raleigh, North Carolina on Friday September 28, and Saturday September 29, 1990.

The Commission, established by the Immigration Reform and Control Act (IRCA) of 1986 under section 304 is charged with evaluating the Special Agricultural Worker (SAW) provisions of IRCA and with reviewing several specific aspects relating to the demand for and supply of agricultural labor. The Commission is interested in hearing testimony on these issues with specific reference to North Carolina.

The hearing will be open to the public.

DATES: 1:00 p.m. September 28, 1990 and 10 a.m. September 29, 1990.

ADDRESSES: Expo Center—Mission Valley Inn, 2110 Avent Ferry Road, Raleigh, North Carolina 27606.

FOR FURTHER INFORMATION CONTACT: Richard R. Peterson, Telephone: (202) 673–5348.

Dated: September 18, 1990.

Richard R. Peterson,

Acting Executive Director.

[FR Doc. 90–22402 Filed 9–20–90; 8:45 am]

BILLING CODE 6820–62–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

September 14, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566–8041. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as consultations have not yet been held between the Governments of the United States and the Republic of Korea on a mutually satisfactory solution for Category 239, the United States Government has decided to control imports in this category for the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

The United States remains committed to finding a solution concerning Category 239. Should such a solution be reached in consultations with the Government of the Republic of Korea further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 55 FR 1706, published on January 18, 1990; and 55 FR 37344, published on September 11, 1990.

Dated: September 17, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

September 14, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1990 by the Chairman, Committee for the Implementation of Textile Agreements. This directive concerns imports into the United States of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the Republic of Korea and exported during the period which began on January 1, 1990 and extends through December 31, 1990.

Effective on September 24, 1990, you are directed to amend the directive of January 11, 1990 to include Category 239 at a level of 740,667 kilograms.[1] Category 239 shall remain subject to the current Group II limit.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1989.

Further, you are directed to retain import charges already made to Category 239 in Group II.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 90–22396 Filed 9–20–90; 8:45 am]

BILLING CODE 3510–DR–M

Announcement of a Request for Bilateral Textile Consultations With the Government of Nepal

September 14, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on categories on which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On August 29, 1990, under Section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Nepal regarding imports of women's and girls' blouses and shirts in Category 641, produced or manufactured in Nepal.

The purpose of this notice is to advise the public that, if no solution is agreed upon on consultations with the Government of Nepal, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of blouses and shirts in Category 641, produced or manufactured in Nepal and exported during the twelve-month period which began on August 29, 1990 and extends through August 28, 1991, of not less than 165,780 dozen.

A summary market statement concerning Category 641 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 641, or to comment on domestic production or availability or products included in Category 641, is invited to submit 10

copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230, ATTN: Public Comments.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textile and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 641. Should such a solution be reached in consultations with the Government of Nepal, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (See **Federal Register** notice 54 FR 50797, published on December 11, 1989).

Dated: September 17, 1990.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement Women's and girls' Man-Made Fiber Woven Shirts and Blouses—Category 641

Nepal, August 1990.

Import Situation and Conclusion

U.S. Imports of women's and girls' man-made fiber woven shirts and blouses (Category 641) from Nepal reached 165,780 dozen during the year ending May 1990, nine and one-half times greater than the 17,328 dozen imported during the same period of 1989. During the first five months of 1990, imports of Category 641 from Nepal reached 95,291 dozen, ten times the 9,541 dozen imported during the corresponding period in 1989 and 19 percent greater than the 80,030 dozen imported during calendar year 1989. Imports from Nepal in 1988 totalled 8,843 dozen.

The sharp and substantial increase in Category 641 imports from Nepal is causing disruption in the U.S. market for women's and girls' man-made fiber woven shirts and blouses.

U.S. Production and Market Share

U.S. production of women's and girls' man-made fiber woven shirts and blouses (Category 641) fell from 14, 231 thousand dozen in 1987 to 10,168 thousand dozen in 1989, a decline of 29 percent. The share of this market held by domestic manufacturers fell form 61 percent in 1987 to 50 percent in 1989, a decline of 11 percentage points.

U.S. Imports and Import Penetration

U.S. imports of women's and girls' man-made fiber woven shirts and blouses (Category 641) increased from 9,020 thousand dozen in 1987 to 10,098 thousand dozen in 1989, a 12 percent increase. During the first five months of 1990, U.S. imports of Category 641 increased two percent when compared to the same period of 1989, reaching 4,663 thousand dozen. The ratio of imports to domestic production increased to 99 percent in 1989, 36 percentage points above the 63 percent in 1987.

Duty-Paid Value and U.S. Producers' Price

Approximately 89 percent of Category 641 imports from Nepal during the first five months of 1990 entered under HTSUSA number 6206.40.3030—women's man-made fiber woven blouses and shirts, other than of yarn-dyed fabric. These garments entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments.

[FR Doc. 90-22395 Filed 9-20-90; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1990 services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 22, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 20 and August 3, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 29648 and 31621) of proposed additions to and deletion from Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

Additions

No comments were received concerning the proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1990:

Services

Janitorial/Custodial, Gaithersburg U.S. Army Reserve Center, 8791 Snouffers School Road, Gaithersburg, Maryland.

Janitorial/Custodial, Maus-Warfield U.S. Army Reserve Center, 1850 Baltimore Road, Rockville, Maryland.

Janitorial/Custodial, U.S. Army Reserve Center, Greenwood, South Carolina.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by

the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6. Accordingly, the following service is hereby deleted from Procurement List 1990:

Janitorial/Custodial Federal Building, 275 Peachtree Street, Atlanta, Georgia.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–22427 Filed 9–20–90; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 a commodity to be produced and services to be provided by workshops for the blind or other severly handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 22, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Commodity

Collector, Moisture, 2010–01–033–7292.

Services

Janitorial/Custodial, Building 225; Robins Air Force Base, Georgia.

Janitorial/Custodial, U.S. Post Office and Courthouse, Floors 1 and 2 only, 600 W. Capital, Litte Rock, Arkansas.

Beverly L. Milkman,

Executive Director.

[FR Doc. 90–22428 Filed 9–20–90; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: CHAMPUS/CHAMPVA Claim Form; DD Form 2520; 0704–0084.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: .56 hours (34 minutes).

Responses Per Respondent: Once per respondent.

Number of Respondents: 3,979,929.

Annual Burden Hours: 2,228,760.

Annual Responses: 3,979,929.

Needs and Uses: The information collection requirement is used by CHAMPUS and CHAMPVA beneficiaries, military treatment facilities and health care providers to file for reimbursement of health care services. The requested information is used to determine eligibility, appropriateness and cost of care, other health insurance liability and whether services received are benefits.

Affected Public: Individuals or households, state or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions and small businesses or organizations.

Frequency: As required.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at the Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written request for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22203–4302.

Dated: September 17, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90–22417 Filed 9–20–90; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary of Defense

Meetings: Ada Board

ACTION: Notice of meeting.

SUMMARY: A meeting of the Ada Board will be held Tuesday, October 30, 1990 from 9 a.m. to 5 p.m. at the Radisson Mark Plaza Hotel and Conference Center, 5000 Seminary Road, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Carlson, Ada Information Clearinghouse c/o IIT Research Institute, 4600 Forbes Boulevard, Lanham, MD 20706, (703) 685–1477.

Dated: September 17, 1990.

Linda Bynum,

Alternate Federal Register Liaison Office, Department of Defense.

[FR Doc. 90–22416 Filed 9–20–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Amendment to System of Records

AGENCY: Department of Education.

ACTION: Notice of an amended system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education publishes this notice of an amendment to the system of records currently known as the Pell Grant Application File. This amendment will add an additional routine use to this existing system of records, change the name of the system to the Federal Student Aid Application File, and make technical corrections. The Department seeks comments on the proposed routine uses contained in this notice.

DATES: Comments on the proposed new routine uses for this system of records must be submitted by October 22, 1990. The Department filed a report on the amended system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Administrator of the Office of Information and

Regulatory Affairs of the Office of Management and Budget (OMB) on September 17, 1990. The new routine uses will become effective on November 16, 1990, unless OMB asks for additional time for review before that date. The Department will publish any changes to the routine uses that are required as a result of the comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to Ms. Carney M. McCullough, Chief, Policy Section, Pell Grant Branch, Division of Policy and Program Development, Student Financial Assistance Programs, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5444. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 4318, Regional Office Building No. 3, 7th and D Streets SW., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Andrade, Program Specialist, Pell Grant Branch, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–5444. Telephone (202) 708–7888.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (see 5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of an amended system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) at 34 CFR part 5b.

The Department is proposing to amend the system of records known as the Pell Grant Application File by adding an additional routine use. This new routine use will be incorporated in the 1990–91 Federal Student Aid Application processing cycle. Under this proposed routine use, the Department will transmit to a Multiple Data Entry (MDE) agency listed under record source categories the applicant-reported information received from that MDE agency and the Department's calculations of a Pell Grant Index (PGI) and Family Contribution (FC) under the Congressional Methodology, and determination of eligibility for a Pell Grant. The Department will also, at the request of the applicant, transmit to another MDE agency the applicant-reported data on file and the Department's FC and PGI calculations based on that data.

The Department has taken this initiative in order to eliminate the duplication of effort that previously existed in the application processing system. Under the 1989–90 application processing system, an applicant who applies for Federal student assistance on an MDE agency's application form receives notification of Pell Grant eligibility, PGI, and FC from the Department and FC from the MDE agency. Additionally, if the applicant needs to correct or change data from what he or she reported on his or her application, the student, depending on the nature of the corrections or changes, may be required to report the corrections or changes to both the Department and the MDE agency. In 1990–91, the Department's calculations of a PGI and FC under the Congressional Methodology, and determination of eligibility for a Pell Grant will be transmitted to the student by the MDE agency and all corrections and changes to Federal data will be submitted through the MDE agency. This change will allow the student to have dealings with only one entity in the processing of his or her application for student financial assistance.

In addition to the new routine use discussed above, the Department is also proposing to make a technical amendment to this system of records to incorporate into the notice those specific routine uses contained in Appendix B of 34 CFR 5b that apply to this system of records. Appendix B contains standard routine uses of information contained in systems of records maintained by the Department of Education. Currently, this system of records makes a general cross-reference to the routine uses contained in Appendix B under the list of routine uses. However, not all of the routine uses contained in Appendix B are applicable to this system of records, and therefore this amendment is made to incorporate into the notice updated versions of only those routine uses that specifically apply to this system of records. Also, another new routine use is proposed for inclusion to clarify the routine use which permits disclosure to the Department of Justice currently included in the Appendix to the Department's Privacy Act regulations. Under this new routine use, the Department may disclose a record to a court or adjudicative body if the disclosure is necessary for litigation and is consistent with the purposes for which the information in the record was collected.

A number of technical changes are being made to this system of records as a result of the evolution of this system into a title IV application system, rather than simply a Pell Grant application system. The Higher Education Amendments of 1986 made a number of significant changes which affected this system of records starting in the 1988–89 award year processing cycle. Most notably the 1986 Amendments codified, for the first time, the need analysis formula to be used in determining an applicant's need for assistance under the Guaranteed Student Loan programs (Stafford Loan, SLS, and PLUS programs) and campus-based programs (Supplemental Educational Opportunity Grant, Perkins Loan, and College Work-Study programs). Applications for Federal student financial assistance are now subject to the Pell Grant Family Contribution Schedule need analysis formula and the new Congressional Methodology need analysis formula for the other title IV, HEA programs mentioned earlier. In addition, the services offered by the Department to institutions from this system of records have also reflected an orientation broader than the Pell Grant Program and have assisted institutions in awarding funds under the campus-based programs and in certifying loan applications under the Guaranteed Student Loan programs. Therefore, the name of the system of records and the categories of the individuals covered have been amended to reflect this broader range of applicants and use of the system.

Although this change in the categories of individuals covered by the notice expands the number of programs under which information may be processed under this system of records, the set of individuals that would apply for assistance under the additional programs is essentially the same as the set of individuals that would apply for assistance under the Pell Grant Program. Therefore, there has been little change in the actual number of individuals covered by the system notice as a result of covering the additional programs.

Another technical amendment to this system of records adds a purpose clause to the notice. The guidelines existing at the last time this notice was published in the **Federal Register** did not require a purpose clause. This amendment is made to comply with current guidelines which require a purpose clause.

Other technical amendments that have been made to this system of records involve minor changes which simply update and clarify information in the existing notice.

Dated: September 17, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

The Assistant Secretary for Postsecondary Educationf amends the notice of a system of records to read as follows:

18-40-0014

SYSTEM NAME:

Federal Student Aid Application File. ED/OPE/SFAP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

U.S. Department of Education, Office of Postsecondary Education, Division of Program Operations and Systems, Student Financial Assistance Programs, 7th and D Streets, SW. (Regional Office Building #3, room 4640) Washington, DC 20202; Federal Student Aid Application Processing Center, Iowa City, IA 52240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students applying for Federal student financial assistance under title IV of the Higher Education Act of 1965, (HEA).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, birthdate, social security number, and financial data necessary to identify applicants, verify applicant data, and calculate their expected family contributions for Federal student financial assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965, as amended.

PURPOSES:

Information contained in this system is maintained for the purposes of:

(1) Determining an applicant's eligibility for the Federal student financial assistance programs authorized by Title IV of the HEA;

(2) Maintaining a record of the data supplied by those requesting assistance;

(3) Documenting the results of an applicant's need analysis and Pell Grant eligibility;

(4) Reporting the results of the need analysis and Pell Grant eligibility determination to applicants, postsecondary institutions, and State agencies designated by the applicant, and to other Departmental and investigative components for use in operating and evaluating the title IV, HEA programs and in the imposition of criminal, civil or administrative sanctions; and

(5) Acting as a repository and source for information necessary to fulfill the requirements of title IV of the HEA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system of records may be disclosed without the consent of the subject individuals for the following routine uses, consistent with the purposes for which the records were collected:

(a) *Disclosure to institutions of postsecondary education.* Identifying information and expected family contributions of applicants are provided to those institutions of postsecondary education (or their designated agents) in which the applicants plan to enroll or are enrolled.

(b) *Disclosure to State agencies.* The data described in paragraph (a) are provided to State agencies having agreements with the Secretary for purposes of coordinating student aid.

(c) *Disclosure to parents and spouses.* On request, information that is provided by parents or spouses on the application form is disclosed to those individuals.

(d) *Disclosure to multiple data entry agencies listed as record source categories.* Original information received by the Department from a Multiple Data Entry (MDE) agency listed as a record source category and the Department's calculation of expected family contributions and determination of eligibility are provided back to the MDE agency for release to the applicant, and, at the applicant's request, may be released by these agencies to institutions of postsecondary education, and State scholarship and loan guaranty agencies designated by the applicant. Disclosure of this information may be made by the Department of another MDE agency at the request of an applicant.

(e) *Congressional member disclosure.* Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(f) *Enforcement disclosure.* In the event that records maintained in this system of records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(g) *Subpoena disclosure.* Where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(h) *Litigation Disclosure.*—(1) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any Department employee in his or her individual capacity where the Justice Department has agreed to represent the employee; or

(iv) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(2) *Disclosure to a Court or Adjudicative Body.* If the Department determines that disclosure of certain records to a court or adjudicative body before which the agency is authorized to appear is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the court or adjudicative body. Such disclosure may be made in the event that one of the parties listed below is a party to litigation, or has an interest in such litigation:

(i) The Department or any component of the Department;

(ii) Any employee of the Department in his or her official capacity; or

(iii) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States, where the Department determines that litigation is likely to affect the Department or any of its components.

(i) *Contract disclosure.* When the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(j) *Disclosure to third parties through computer matching programs.* Any

information from this system of records, including personal information obtained from other agencies through computer matching programs, may be disclosed to any third party through a computer matching program in connection with an individual's application or participation in any grant or loan program administered by the U.S. Department of Education. Purposes of these disclosures may be to determine program eligibility and benefits, enforce the conditions and terms of the loan or grant, permit the servicing and collecting of the loan or grant, counsel the individual in repayment efforts, investigate possible fraud and verify compliance with program regulations, locate a delinquent or defaulted debtor, and initiate legal action against an individual involved in program fraud or abuse.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number and other information necessary to establish the identity of the individual; (2) the amount, status and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Original applications for award years prior to the 1990–91 are maintained in standard Federal Records Center boxes in locked storage rooms within the Federal Student Aid Application Central Processing Center. Original applications for 1990–91 and subsequent award years are maintained in standard Federal Records Center boxes in locked storage rooms within the facility of the Application for Federal Student Aid Processor. Computerized applicant records are maintained on magnetic tape reels, cartridges and hard disks in the computer facility and locked storage rooms within the Federal Student Aid Application Central Processing Center. Micro-fiche records maintained in the Washington, DC office are locked in standard file cabinets.

RETRIEVABILITY:

Records are indexed by name of applicant with a cross-index file by social security number. Records are available to staff of the Student Financial Assistance Programs (including appropriate contract support staff).

SAFEGUARDS:

All physical access to the Department of Education's contractor's site where this system of records is maintained is controlled and monitored by security personnel. All physical access within the facility is controlled by a computerized badge reading system. The entire complex is patrolled by security personnel during nonbusiness hours.

The computer system employed by the Department of Education offers a high degree of resistance to tampering and circumvention. Multiple levels of security are maintained within the computer system control program. This security system limits data access to Department of Education and contract staff on a "need to know" basis, and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user ID with personal identifiers. All interactions by individual users with the system are recorded.

RETENTION AND DISPOSAL

Original records are maintained for the duration of the contract and then stored in a Federal Records Center for a period not to exceed five years after payment to the grantee in accordance with the ED Comprehensive Schedule, ED–RDS–Part 10–Item 3A.

SYSTEM MANAGER(S) AND ADDRESS

U.S. Department of Education, Office of Postsecondary Education, Director, Division of Program Operations and Systems, Room 4640, Regional Office Building No. 3, 7th and D Streets SW., Washington, DC 20202–5459.

NOTIFICATION PROCEDURE

If an individual wishes to determine whether a record exists for him or her in the system of records, the individual should provide to the system manager his or her name, date of birth, and social security number. Requests for notification about whether the system of records contains information about an individual must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES

If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES

If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described in the notification procedure, identify the specific items to be changed, and provide a justification for the change. Requests to amend a record must meet the requirements of the Department of Education's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES

Information may be provided directly to the Department of Education by applicants, or, at the request of an applicant, may be provided by the following agencies: American College Testing Program, Iowa City, IA 52240; College Scholarship Service, Princeton, NJ 08541; CSX Corporation, Jacksonville, FL 32216; Pennsylvania Higher Education Assistance Agency, Harrisburgy, PA 17102; and United Student Aid Funds, Indianapolis, IN 46250.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

None.

[FR Doc. 90–22360 Filed 9–20–90; 8:45 am]

BILLING CODE 4000–01

DEPARTMENT OF ENERGY

Office of the Secretary of Energy Advisory Board; Determination To Establish the Secretary of Energy Advisory Board Task Force on Economic Modeling Related to Energy

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), and in accordance with 41 CFR 101–6.1029, and following consultation with the Committee Management Secretariat, General Services Adminsitration (GSA), notice is hereby given that the Secretary of Energy Advisory Board (SEAB) Task Force on Economic Modeling Related to Energy has been established.

The Task Force will advise the Secretary of Energy on near-term economic modeling needs of the

Department of Energy, provide a review of the National Research Council study of the Department's National Energy Modeling System, and advise on the long-term modeling agenda for the Department, including DOE's potential role in the larger Federal agenda for economic modeling.

The membership of the Task Force shall include approximately 10 individuals, selected on the basis of their professional experience and competence in areas related to economic modeling. Particular attention will also be paid to obtaining a balance of interests, points of view, and geography.

The establishment of the SEAB Task Force on Economic Modeling Related to Energy has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Task Force will operate in accordance with the provisons of FACA, the DOE Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Elinor Donnelly (202/586–3448).

Issued in Washington, DC on: September 18, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90–22442 Filed 9–20–90; 8:45 am]

BILLING CODE 6450–01–M

Office of the Secretary of Energy Advisory Board, Determination To Establish the Secretary of Energy Advisory Board Task Force on the Nuclear Weapons Production Complex

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), and in accordance with 41 CFR 101–6.1029, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Secretary of Energy Advisory Board (SEAB) Task Force on the Nuclear Weapons Production Complex has been established.

The Task Force will advise the Secretary of Energy on the future of the nuclear weapons production complex, including review of reports on reconfiguring the weapons complex and independent advice on issues affecting the future of the weapons production complex. The latter would include the linkage among clean-up, production, and processing.

The membership of the Task Force shall include approximately 10 individuals, selected on the basis of their professional experience and competence in areas related to national security, manufacturing, technology management, and environmental restoration and waste management. Particular attention will also be paid to obtaining a balance of interests, points of view, and geography.

The establishment of the SEAB Task Force on the Nuclear Weapons Production Complex has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law.

The Task Force will operate in accordance with the provisons of FACA, the DOE Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Elinor Donnelly (202/586–3448).

Issued in Washington, DC, on September 18, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

FR Doc. 90–22443 Filed 9–20–90; 8:45 am]

BILLING CODE 6450–01–M

Office of the Secretary of Energy Advisory Board; Determination To Establish the Secretary of Energy Advisory Board Task Force on Civilian Radioactive Waste Management

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), and in accordance with 41 CFR 101–6.1029, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Secretary of Energy Advisory Board (SEAB) Task Force on Civilian Radioactive Waste Management has been established.

The Task Force will advise the Secretary of Energy on broad strategic issues related to civilian radioactive waste management. The membership of the Task Force shall include approximately 10 individuals, selected on the basis of their professional experience and competence in areas related to radioactive waste management. Particular attention will also be paid to obtaining a balance of interests, points of view, and geography.

The establishment of the SEAB Task Force on Civilian Radioactive Waste Management has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Task Force will operate in accordance with the provisions of FACA, the DOE Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Elinor Donnelly (202/586–3448).

Issued in Washington, DC on: September 18, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90–22440 Filed 9–20–90; 8:45 am]

BILLING CODE 6450–01–M

Office of the Secretary of Energy Advisory Board; Determination To Establish the Secretary of Energy Advisory Board Task Force on the DOE National Laboratories

Pursuant to section 14(a)(2)(A) of the Federal Advisory Committee Act (FACA) (Pub. L. 91–463), and in accordance with 41 CFR 101–6.1029, and following consultation with the Committee Management Secretariat, General Services Administration (GSA), notice is hereby given that the Secretary of Energy Advisory Board (SEAB) Task Force on the DOE National Laboratories has been established.

The Task Force will provide advice to the Secretary of Energy on the research, development, energy, and national defense responsibilities, activities, and operations of the Department of Energy's (DOE) National Laboratories and the Department's management of those laboratories.

The membership of the Task Force shall include approximately 10 individuals, selected on the basis of their professional experience and competence in areas related to the research, development, energy, and national defense responsibilities of the Department. Particular attention will also be paid to obtaining a balance of interests, points of view, and geography.

The establishment of the SEAB Task Force on the DOE National Laboratories has been determined necessary and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Task Force will operate in accordance

with the provisions of FACA, the DOE Organization Act, the GSA Final Rule on Federal Advisory Committee Management, and other directives and instructions issued in implementation of those acts.

Further information regarding this advisory committee can be obtained from Elinor Donnelly (202/586-3448).

Issued in Washington, DC on: September 18, 1990.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 90-22441 Filed 9-20-90; 8:45 am]

BILLING CODE 6450-01-M

Floodplain/Wetlands Statement of Findings for the Clean Coal Technology Project Proposed at Seward Station, Unit No. 15, Seward, PA

AGENCY: Department of Energy (DOE).

ACTION: Statement of findings.

SUMMARY: Information contained in this Statement of Findings is presented to support the decision by the Department of Energy (DOE) to fund, in part, under the Clean Coal Technology Program, a project entitled, "Demonstration of Confined Zone Dispersion (CZD) Flue Gas Desulfurization at Pennsylvania Electric Company, Seward Station Boiler No. 15, Seward, Pennsylvania." The related Floodplain/Wetlands Involvement Notification was published in the Federal Register, Vol. 55, No. 152, Page 32125, dated August 7, 1990. A Floodplain/Wetlands Assessment was prepared in accordance with the requirements of 10 CFR 1022.12 (DOE's "Compliance with Floodplain/Wetlands Environmental Review Requirements").

DATES: No action will be taken until October 9, 1990.

ADDRESSES: Request for copies of the Floodplain/Wetlands Assessment can be directed to the Pittsburgh Energy Technology Center, Department of Energy, P.O. Box 10940, Pittsburgh, PA 15236. All comments should refer to the project title.

FOR FURTHER INFORMATION CONTACT: Dr. Earl Evans, Environmental Project Manager, Pittsburgh Energy Technology Center, Department of Energy, P.O. Box 10940, Pittsburgh, PA 15236. (412) 892-5709.

I. Project Location

The proposed CZD demonstration project would be performed at the Pennsylvania Electric Company, Seward Station, Unit 15. Seward Station occupies 125 acres at an elevation of 1,085 feet above mean sea level in the Conemaugh River Valley. The Station is located approximately 12 miles northwest of Johnstown in the Township of East Wheatfield, Indiana County, Pennsylvania.

The area surrounding Seward Station is comprised of mountains, woodlands, hilly terrain, and farm land characteristic of the Appalachian Chain. Measurable precipitation occurs on an average of 92 days a year, and amounts to an annual average of approximately 45 inches. The Station is on relatively flat terrain within the Conemaugh River Valley adjacent to the Laurel and Chestnut Ridges. Populated areas consist of farms, crossroad villages, and single family dwellings.

II. Proposed Action

The proposed project is intended to demonstrate that CZD technology can provide a cost-effective approach for the reduction of sulfur dioxide (SO_2) emissions from coal-fired boilers. The demonstration would be conducted on the largest of Seward Station's three boilers, a 137 megawatt coal-fired boiler, Unit 15. The CZD project would involve the introducton of a line slurry into the center of one of Unit 15's two parallel flue gas ducts, between the first and second stage of the particulate removal equipment. After the lime slurry is introduced, it would chemically react with SO_2 to form reaction products. These subsequently would be removed along with fly ash by the second stage particulate removal equipment. The reaction products and fly ash would be disposed of a solid waste along with bottom ash into a permitted offsite disposal facility in accordance with the existing practice.

Most project construction would involve the installation of lime slurry handling and control equipment inside the existing buildings at the Station. The only construction that would occur external to Unit 15, and could therefore affect floodplain values, would be the replacement of one the two existing flue gas ducts with a new U-shaped duct that would be used for the injection of the lime slurry. This duct, installed 32 feet above ground level, would be supported by ten 14-inch wide steel columns. Each of these would be anchored to a 3-foot by 3-foot concrete foundation, flush with ground level.

III. Flood Insurance Study

A "Flood Insurance Study (FIS), Township of East Wheatfield, Pennsylvania, Indiana County, October 31, 1988 (Preliminary)" was performed for the Federal Emergency Management Agency by the U.S. Army Corps of Engineers. The FIS provides 100-year flood elevations and delineations of the 100- and 500-year floodplain boundaries and 100-year floodway to assist in developing floodplain management measures.

Seward Station is located within an area designated as the 100-year floodplain. This 100-year floodplain is divided into a floodway and a floodway fringe.

The floodway is the channel of the stream, plus any adjacent floodplain areas, that must be kept free from encroachment so that the 100-year flood can be carried without substantial increases in flood heights. Minimum federal standards limit these increases to 1.0 feet or less, provided that hazardous velocities are not produced.

The area between the floodway and the 100-year floodplain boundaries is termed the floodway fringe. The floodway fringe encompasses the portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the 100-year floodplain by more than the 1.0-foot minimum federal standard at any point.

IV. Floodplain/Wetlands Impacts

The DOE is making the presumption that the installation of the ten steel columns and their foundations would be within the floodway fringe of the 100-year floodplain as defined by the EIS.

Impacts of Construction

As previously noted, the only construction that could affect the floodplain values would be the installation of ten, 14 inch wide, steel columns supported at grade by concrete foundations in the floodway fringe.

The data in the FIS indicate that the 100-year floodplain surface elevation ranges at the Seward Station from 1094.4 to 1097.6 feet National Geodetic Vertical Datum (NGVD). The ground surface elevation where the columns and foundation would be installed is approximately 1085 feet NGVD. The construction area would be 11.5 feet below the 100-year water surface elevation.

The new flue gas duct, supported by the columns 32 feet above ground level, would be above the 100-year water surface elevation, and therefore not in the 100-year floodplain.

The concrete foundations would be at ground elevation and would not cause any impact.

The steel columns would obstruct a cross-sectional flow area of about 134 square feet (approximately 0.4 percent to 0.7 percent of the cross-sectional area

of the floodway fringe); this would be a minor reduction in the cross-sectional area of the floodway fringe where water velocities would be much lower than in the floodway. This minor reduction would limit the impact of the project to a small change in cross-sectional flow area.

In addition, the main building would provide a protective barrier against floating debris with the potential to impinge against the columns during a 100-year flood event.

The foundations and columns would not be constructed in or near wetlands, and thus would have no effect on wetlands.

Impact of Operation

In the event of a flood, trucks and rail cars would be moved to higher ground out of the areas of flooding. All other activities associated with the operation of the CZD Project would be conducted with existing Station equipment, both inside and outside existing buildings. The operation of the CZD Project would have no effect on the 100-year floodplain.

V. Consideration of Alternatives

The Clean Coal Technology (CCT) Program has developed a three-level strategy for complying with the National Environmental Policy Act (NEPA) that is consistent with the President's Council on Environmental Quality for regulations implementing NEPA and the DOE Guidelines for compliance with NEPA. The strategy includes the consideration of programmatic and project-specific environmental impacts during and subsequent to the project selection process.

As the first level, DOE published and publicly distributed a Programmatic Environmental Impact Statement (EIS) for the Clean Coal Technology Demonstration Program (DOE/EIS–0146) in November of 1989. The Programmatic EIS assessed the impacts of all technologies being demonstrated under the CCT Program. As a second level, prior to project selection, DOE prepared a confidential, project-specific, analysis for internal DOE use in the decision-making process. The third level is represented by the preparation of a project-specific NEPA document.

No Action

The no action alternative was considered throughout all NEPA strategy levels noted above.

Delayed Action

Delaying the installation and operation of the proposed project would retard the commercial application of the technology by other utilities, would not be consistent with the schedule of demonstrations defined by the CCT Program, and would not contribute to the accomplishment of the Program objectives.

Alternative Sites

Alternative sites to the proposed site were considered within the scope of the confidential, pre-selection, analysis performed by the DOE prior to the selection of this project. Therefore, consideration of alternative sites has been addressed and eliminated from further consideration.

Alternative Technologies

Other technologies that could be demonstrated under the CCT Program were also fully assessed by the DOE in the confidential, pre-selection, analysis. Therefore, alternative technologies need not receive further consideration.

IV. Determination

As a result of this review of alternatives and evaluations of the environmental impacts, DOE has determined that there is no practical alternative to locating the 3-foot by 3-foot concrete foundations and the supporting steel columns in the floodway fringe. All actions will be in conformity with local floodplain protection standards and the requirements of the Pennsylvania Department of Environmental Resources and the U.S. Army Corps of Engineers pertaining to floodplains.

Issued at Washington, DC, this 12th day of September 1990.

Michael R. McElwrath,

Principal Deputy Assistant Secretary, Fossil Energy.

[FR Doc. 90–22444 Filed 9–20–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 5–021, et al.]

Hydroelectric Applications Montana Power Co., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of application:* Fish and Wildlife Mitigation Plan.

b. *Project no.:* 5–021, 5–022, and 5–023.

c. *Date filed:* June 22, 1990.

d. *Applicant:* Montana Power Company.

e. *Name of project:* Kerr Hydroelectric Project.

f. *Location:* In Northwest Montana on the Flathead River (river mile 72) and Flathead Lake, in Flathead and Lake Counties, near the town of Polson, MT.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contacts:*

Mr. Nicholas W. Fels, Covington and Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20044, (202) 662–5648

Mr. Robert T. O'Leary, Montana Power Company, 40 East Broadway, Butte, MT 59701, (406) 723–5421.

i. *FERC contact:* Patrick K. Murphy, (202) 357–0659.

j. *Comment date:* November 13, 1990.

k. *Description of project:* To comply with articles 45, 46, and 47 of the license, Montana Power Company (licensee) proposes the following measures for the benefit of the fishery resources of the project area: (1) Modify the minimum flow releases from the Flathead Lake Dam and the operating water levels of Flathead Lake; (2) pay for a new fish hatchery to supply fish to the lower Flathead River and pay to upgrade the fish hatchery at Creston, MT, or other Flathead Lake fisheries management objectives; (3) pay for construction of a fish-screen shop or other fishery enhancement measures; and (4) make annual payments for hatchery operation and maintenance, habitat enhancement, monitoring, and other measures. The licensee also proposes the following measures for the benefit of wildlife resources: (1) Pay for the purchase of up to 6,286 acres of lands to be used for wildlife habitat management; (2) pay for the development of a variety of wildlife enhancement measures; and (3) make annual payments for the management and monitoring of acquired wildlife habitat lands. Further, the licensee proposes to contract the installation of erosion control measures along selected sections of the north shore of Flathead Lake.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. *Type of application:* Amendment of License.

b. *Project no.:* 1121–019.

c. *Date filed:* July 20, 1990.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of project:* Battle Creek.

f. *Location:* Macumber Reservoir, on North Fork Battle Creek in Tehama County, CA.

g. *Filed pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant contact:*

Luther M. Dow, Pacific Gas and Electric Company, Hydro Generation Department, 245 Market Street—Rm 518, San Francisco, CA 94106, (415) 973–5310.

i. *FERC contact:* Robert H. Grieve (202) 357–0655.

j. *Comment date:* October 29, 1990.

k. *Description of project:* Licensee proposes to repair an existing berm, which will permanently isolate the southwestern cove of Macumber Reservoir from inflow.

l. *Purpose of project:* To isolate cove from leaking, to maintain higher reservoir level for protection of fish resources and recreation values.

m. This notice also consists of the following standard paragraphs: B, C, and D2.

3a. *Type of application:* Non-Project Use of Project Lands.

b. *Project no:* 2232–248.

c. *Date filed:* August 9, 1990.

d. *Applicant:* Duke Power Company.

e. *Name of project:* Catawba-Wateree.

f. *Location:* Lake Norman, Iredell County, North Carolina.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. John E. Lansche, Associate General Council, Duke Power Company, P.O. Box 33189, Charlotte, NC 28242, (206) 383–2471.

i. *FERC contact:* Dan Hayes, (202) 357–0670.

j. *Comment date:* October 15, 1990.

k. *Description of project:* Duke Power Company, licensee for the Catawba-Wateree Project, requests Commission approval to lease project lands to Lake Norman Cruises, Inc. for development of a commercial marina. The parcel to be leased consists of approximately 1.8 acres within the project boundary of the Cowans Ford development. The proposed development is adjacent to the McCrary Creek Access Area and Pier Marina. The marina is proposed to provide docks and appurtenances for two large boats (60+ feet), to be used to conduct recreational cruises on Lake Norman. Multiple smaller docks will also be provided.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

4a. *Type of application:* Amendment to Conduit Exemption.

b. *Project no:* 6801–003.

c. *Date filed:* May 11, 1990.

d. *Applicant:* Farmers Irrigation District.

e. *Name of project:* FID Project No. 3.

f. *Location:* Low Line Ditch, Hood River County, Oregon.

g. *Filed pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant contact:* Paul Randall, Manager, Farmers Irrigation District, 1985 County Club Road, Hood River, OR 97031, (503) 386–3115.

i. *FERC contact:* Robert Grieve, (202) 357–0655.

j. *Comment date:* November 5, 1990.

k. *Description or project:* Existing facilities included: (1) A diversion structure in Low Line Ditch; (2) a 21,000-foot-long penstock; (3) a power plant with installed capacity of 1,800 kW; and (4) an underground transmission line, 8,100 feet long. Applicant proposes to divert up to 25 cfs of additional water at three additional existing irrigation diversions into existing canals and pipelines for operation of the project. The three diversions are located on Cabin Creek, Gate Creek, and North Fork Green Point Creek.

l. *Purpose of project:* To provide additional water to an existing hydroelectric project that does not have sufficient water to operate at installed capacity.

m. This notice also consists of the following standard paragraphs: B, C, and D3b.

5 a. *Type of filing:* Amendment to the Pending Application for Minor License.

b. *Project no.:* 8445–002.

c. *Date filed:* June 13, 1990. (Original license application filed November 17, 1986).

d. *Applicant:* Jerry B. Buckley.

e. *Name of project:* Blue Hill Project.

f. *Location:* Occupies lands in the Arapaho National Forest, on the West Fork Clear Creek Near the Town Empire, in Clear Creek County, Colorado.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Jerry B. Buckley, P.O. Box 609, Georgetown, CO 80444, (303) 569–3201.
Philip A. Harris, High Country Engineering, Inc., 118 W. 6th Street, Suite 205, Glenwood Springs, CO 81601, (303) 945–8676.

i. *FERC contact:* Hector M. Perez, (202) 357–0847.

j. *Comment date:* October 26, 1990. (The deadline for filing competing applications was November 6, 1987, as stated in the original notice of the application issued on September 3, 1987.)

k. *Description of project:* The proposed run-of-river project as modified by this amendment would consist of: (1) An existing 15-foot-high and about 45-foot-long earthfill and rock dam; (2) an existing 36-inch-diameter intake pipe at the dam; (3) a new 24-inch-diameter, 1,500-foot-long steel penstock; (4) a new 18-foot-long by 18-foot-wide concrete powerhouse with a 220 kW turbine/generator unit; (5) a new 50-foot-long open channel tailrace; (6) a new 25-kV, 400-foot-long transmission line connecting the project to an existing Public Service Company of Colorado line; (7) a new access road from Highway 40; and other appurtenances. The Applicant estimates an average annual generation of 667,666 kWh.

l. *Purpose of the project:* Applicant intents to sell the power generated by the proposed facility to the Public Service Company of Colorado.

m. This notice also consists of the following standard paragraphs: A4, B, and C.

6 a. *Type of application:* Surrender of License.

b. *Project no.:* 8798–007.

c. *Date filed:* June 25, 1990.

d. *Applicant:* Rivers Electric Company, Inc.

e. *Name of project:* Lower Walden Project.

f. *Location:* On the Wallkill River, Orange County, New York.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant contact:* Mr. Charles Pepe, P.O. Box 707, Alpine, NJ 07620, (201) 768–4040.

i. *FERC contact:* Michael Dees (202) 357–0807.

j. *Comment date:* October 12, 1990.

k. *Description of Project:* On July 30, 1986, a license was issued to Rivers Electric Company, Inc. to construct, operate, and maintain the Lower Walden Project No. 8798. On May 20, 1988, the deadline to start construction was extended to July 30, 1990, and has now expired. The project would consist of: (a) A 9-foot-high, 350-foot-long concrete gravity dam with 2 feet of flashboards, owned by the Village of Walden; (b) a reservior with a surface area of 10 acres and negligible storage capacity with a water surface elevation of 280 feet msl; (c) a powerhouse at the base of the dam containing a generating unit with a rated capacity of 750-kW; (d) the 0.48-kV generator leads; (e) the 0.48/4.8-kV, 800-kVA step-up transformer; (f) the 3,000-foot-long service drop; and (g) appurtenant facilities.

l. This notice also consists of the following standard paragraphs: B, C and D2.

7 a. *Type of application:* Surrender of License.

b. *Project No.:* 8968–007.

c. *Date filed:* May 11, 1990.

d. *Applicant:* Rivers Electric Company, Inc.

e. *Name of project:* Woodstock Dam.

f. *Location:* On the Catskill Creek in Greene County, New York.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Charles Pepe, P.O. Box 707, Alpine, NJ 07620, (201) 768–4040.

i. *FERC contact:* Michael Dees (202) 357–0807.

j. *Comment date:* October 12, 1990.

k. *Description of project:* On May 28, 1986, a license was issued to Rivers Electric Company, Inc. to construct, operate and maintain the Woodstock Dam Project No. 8968. On March 25, 1988, the deadline to start construction was extended to May 27, 1990, and has now expired. The project would consist of: (a) The Woodstock Dam, which has an overall length of approximately 236 feet and a height of 32 feet; (b) a reservoir with a surface area of 15 acres at spillway crest elevation 320 feet m.s.l.; (c) the two-foot-high flashboards which will increase the reservoir surface area to 18 acres at surface elevation 322 m.s.l.; (d) the two 5-foot-diameter, 50-foot-long penstocks; (e) the installation of three 275-kW generating units in a new powerhouse, thereby containing a total installed generating capacity of 825 kW; (f) the 0.48-kV generator leads; (g) the 0.48/7.64-kV, 1,000 kVA transformer; (h) the 50-foot-long service drop; and (i) appurtenant facilities.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

8 a. *Type of application:* Conduit Exemption.

b. *Project No.:* 9543–001.

c. *Date filed:* October 28, 1988.

d. *Applicant:* Rim View Trout Company, Inc.

e. *Name of project:* Rim View Hydroelectric Project.

f. *Location:* On Rim View's fish hatchery facility, in Gooding County, Idaho.

g. *Filed pursuant to:* Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708, as amended).

h. *Applicant contact:* Mr. Vernon Ravenscroft, Consulting Associates, Inc., 1843 Broadway Avenue, suite 102, Boise, ID 83706, Telephone: (208) 357–2670.

i. *FERC contact:* Mr. William Roy-Harrison, (202) 357–0845.

j. *Comment date:* October 25, 1990.

k. *Description of project:* The proposed project would consist of: (1) Two 54-inch-diameter, 200-foot-long penstocks from the existing hatchery's intake and outflow facilities, respectively; and (2) two powerhouses containing a single generating unit. The combined capacity of the units would be 525 kW with an average annual energy production of 4,000,000 kWh.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3B.

9 a. *Type of application:* Minor License.

b. *Project no.:* 10818–000.

c. *Date filed:* September 11, 1989.

d. *Applicant:* Greenbrier Electro—Motive.

e. *Name of project:* Kincaid Hydro Project.

f. *Location:* On Muddy Creek near Alderson, Greenbrier County, West Virginia.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Raymond W. Tuckwiller, Rt. 2, Box 322, Lewisburg, WV 24901, (304) 645–2622.

i. *FERC contact:* Michael Dees (202) 357–0807.

j. *Comment date:* October 31, 1990.

k. *Description of project:* Greenbrier Electro-Motive has applied for licensing for the Kincaid Hydro Project to be located on Muddy Creek near Alderson, West Virginia. The proposed project is located on the former site of the Rockstool Mill.

The applicant proposes to reconstruct the dam at its original site and height. The proposed dam consists of (1) An existing gauge weir which is 68 feet long and 5 feet wide, (2) six proposed wicket gates, 6 feet by 9 feet, to be located above the concrete base, (3) two proposed 5 foot by 6 foot gates to be located at the right abutment, and (4) a proposed 5 foot by 20 foot trashrack located upstream of the control gates. A 15-kilowatt (kW) induction generator, driven by a turbine, would be located in the proposed dam. A proposed steel reinforced concrete powerhouse would have a 220-volt, single phase, 70-kW induction generator driven by a 104-hp double crossflow turbine and a 220 volt, single phase, 65-kW induction generator driven by a 96-hp Kaplan turbine. The proposed project would also include a 220/7,200-volt, single phase transformer with a capacity of 200 kilovoltamps and a 7,200 volt transmission line 1,055 feet long.

At a hydraulic head of 23.9 feet and a hydraulic capacity of 100 cubic feet per second, the 150-kW hydropower plant would generate approximately 853,200 kW-hours per year. The power would be sold to the West Virginia Power Company.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

10 a. *Type of application:* Minor License.

b. *Project no.:* 10836–000.

c. *Date filed:* October 16, 1989.

d. *Applicant:* Friends of Keeseville, Inc.

e. *Name of project:* Ausable.

f. *Location:* On the Ausable River in the Village of Keeseville, Towns of AuSable and Chesterfield, Counties of Clinton and Essex, New York.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant contact:* Ms. Ann Ruzow Holland, P.O. Box 446, Keeseville, NY 12944, (518) 834–9606.

i. *FERC contact:* Charles T. Raabe (tag), (202) 357–0811.

j. *Comment date:* October 31, 1990.

k. *Description of project:* The proposed run-of-river project would consist of: (1) A rehabilitated 8-foot-high, 160-foot-long timber-crib overflow-type dam having a new reinforced concrete intake structure; (2) a reservoir having a surface area of about 4.3 acres and a storage capacity of about 17 acre-feet at spillway crest elevation 403.2 feet USGS; (3) a new underground reinforced-concrete powerhouse containing a new 1,500–kW generating unit; (4) a new 180-foot-long underground tailrace; (5) a short 4.8-kV transmission line; and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 5,173,000 kWh. Project power would be sold to a public utility. The dam is owned by the Village of Keeseville, New York.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11 a. *Type of application:* Conduit Exemption.

b. *Project No.:* 10939–001.

c. *Date filed:* July 30, 1990.

d. *Applicant:* James B. Adkins.

e. *Name of project:* Zena Creek Ranch Hydropower.

f. *Location:* On an existing diversion of water from Zena Creek in Valley County, Idaho. Township 20 N., Range 9 E., B.M.

g. *Filed pursuant to:* Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. *Applicant contact:* Mr. Richard K. Linville, Attorney at Law, P.O. Box 671, Emmett, ID 83617, (208) 365–2106.

i. *FERC contact:* Mr. James Hunter, (202) 357–0843.

j. *Comment date:* October 23, 1990.

k. *Description of project:* The existing project consists of: (1) A connection to a 10-inch-diameter water supply pipeline; (2) a 16-foot-wide, 26-foot-long powerhouse containing a generating unit rated at 45 KW and producing an average annual output of 61 MWH; and (3) a tailrace connecting to pipelines directing water to domestic, irrigation, and stock watering uses.

l. *Purpose of project:* All power generated is consumed by the lodge and related buildings on the ranch.

m. This notice also consists of the following standard paragraphs: B, C, and D3b.

12 a. *Type of filing:* Preliminary Permit.

b. *Project No.:* 10957–000.

c. *Date filed:* June 14, 1990.

d. *Applicant:* Baldwin Hydro Corporation.

e. *Name of project:* Twentymile Creek Hydro Project.

f. *Location:* On Twentymile Creek, a tributary to the South Fork of Clearwater River, in Idaho County, Idaho.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant contact:* Daniel A. Baldwin, P.O. Box 211, Elk City, Idaho 83525, (208) 842–2382.

i. *Commission contact:* Nanzo T. Coley, (202) 357–0840.

j. *Comment date:* November 23, 1990.

k. *Description of project:* The proposed project would be located within the Nez Perce National Forest. The proposed project would consist of: (1) A proposed 10-foot-high diversion dam; (2) two proposed 28-inch-diameter, 12,088-foot-long penstocks; (3) a proposed powerhouse containing two generating units having a total rated capacity of 2,067 kW; (4) a proposed 250-foot-long, 34-kVA transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 10,657,000 kWh. The applicant estimates the cost of the work to be performed under the preliminary permit at $50,000.

l. *Purpose of project:* Power produced at the project would be sold to the Washington Water Power Company or the Pacific Power and Light Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

13 a. *Type of application:* Preliminary Permit.

b. *Project no.:* 10958–000.

c. *Date filed:* June 18, 1990.

d. *Applicant:* Lake at Las Vegas Joint Venture.

e. *Name of project:* Las Vegas Wash.

f. *Location:* On Las Vegas Wash, in Clark County, Nevada Township 21 S Range 63 E.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant contact:* Mr. Alton E. Jones, Lake at Las Vegas, 1050 East Flamingo Road, Suite 137, Las Vegas, NV 89119, (702) 735–1919.

i. *FERC contact:* Michael Spencer at (202) 357–0846.

j. *Comment date:* November 29, 1990.

k. *Description of project:* The proposed project would consist of: (1) An existing 14-foot-high bypass diversion and intake; (2) two existing 84-inch-diameter, 10,700-foot-long bypass pipelines; (3) a powerhouse containing one generating unit with a capacity of 2,780 kW and an estimated average annual generation of 11.8 GWh; and (4) a 2-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $30,000.

l. *Purpose of project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

14 a. *Type of application:* Preliminary Permit.

b. *Project no.:* 10967–000.

c. *Date filed:* July 3, 1990.

d. *Applicant:* Washington Hydro Development Company.

e. *Name of project:* Cumberland Creek Water Power Project.

f. *Location:* On Cumberland Creek, a tributary of the Skagit River, near the town of Sedro Woolley in Skagit County Washington. T35N R6E, Williamette Meridian.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant contact:*

Bill E. Covin, Hydro West Group, Inc., 1422–130th Avenue NE., Bellevue, WA 98005, (206) 455–0234

Frank Frisk, Jr., Attorney at Law, 1054 31st St. NW., Washington, DC 20007, (202) 342–5267

Lon Covin, Hydro West Group, Inc., 1422 130th Avenue NE., Bellevue, WA 98005, (206) 455–0234.

i. *FERC contact:* Ms. Deborah Frazier-Stutely (202) 357–0842.

j. *Comment date:* November 23, 1990.

k. *Description of project:* The proposed project would consist of: (1) A 13-foot-high, 80-foot-long diversion dam with a crest elevation at 1,960 feet msl; (2) a 25 foot by 10 foot concrete intake structure consisting of fish screens, gates, and trash racks; (3) a 36-inch-diameter, 7,500-foot-long penstock; (4) a powerhouse containing a single generating unit with an installed capacity of 9,300 kW, producing an estimated annual energy output of 34,500,00 kWh; (5) a tailrace; (6) approximately 5,000 feet of new road, providing access to the powerhouse and diversion dam areas; and (7) a 4-mile-long, 34.5-kV transmission line tying into the proposed Puget Sound Power and Light Company's Day Creek substation.

The project uses a Forest Service maintained road, but will not be located on Forest Service lands.

No new access roads will be needed to conduct the studies. The applicant estimates the cost of the studies to be conducted under the preliminary permit would be $300,000.

l. *Purpose of project:* Project power would be sold to Puget Sound Power and Light Company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

15 a. *Type of application:* Preliminary Permit.

b. *Project No.:* 10977–000.

c. *Date filed:* July 27, 1990.

d. *Applicant:* Shoshone Irrigation District.

e. *Name of project:* Willwood Dam Power Project.

f. *Location:* At the existing Bureau of Reclamation Willwood Diversion Dam on the Shoshone River near Powell in Park County, Wyoming.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Contact person:* Mr. Edward A. Norlin, 337 East First Street, Powell, WY 82435, (307) 754–5741.

i. *FERC contact:* Ms. Julie Bernt, (202) 357–0839.

j. *Comment date:* November 23, 1990.

k. *Description of project:* The proposed project would consist of: (1) A powerhouse containing one generating unit with a rated capacity of 2,000 kW connected to existing outlet works; and (2) a 2-mile-long transmission line. The applicant estimates the average annual energy production to be 11 GWh and the cost of the work to be performed under the preliminary permit to be $100,000.

l. *Purpose of project:* The power produced would be sold to a local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C and D2.

16 a. *Type of filing:* Preliminary Permit.

b. *Project No.:* 10979–000.

c. *Date filed:* July 30, 1990.

d. *Applicant:* L. B. Industries, Inc.

e. *Name of project:* Heron Dam Water Power Project.

f. *Location:* On Willow Creek in Rio Arriba County, New Mexico.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Paul Nolan, 8219 N. 19th Street, Arlington, Virginia 22205, (703) 534–5509.

i. *Commission contact:* Nanzo T. Coley, (202) 357–0840.

j. *Comment date:* November 23, 1990.

k. *Description of project:* The applicant proposes to utilize the existing Heron Dam under the jurisdiction of the Bureau of Reclamation. The proposed project would consist of: (1) A proposed 10.5-foot-diameter, bifurcated steel liner, which would be installed in the existing Bureau's tunnel, with one branch extending to the existing stilling basin and the other branch extending to the proposed penstocks; (2) two proposed penstocks, each 10.5 feet in diameter and 1,350 feet long; (3) a proposed powerhouse containing two generating units rated at 4,000 kW each; (4) a proposed 24.9-kV, 3-mile-long transmission line; and (5) appurtenant facilities. The estimated average annual energy output for the project is 15,700,000 kWh. The applicant estimates the cost of the work to be performed under the preliminary permit at $120,000.

l. *Purpose of project:* Power produced at the project would be sold to a utility company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

17 a. *Type of filing:* Preliminary Permit.

b. *Project no.:* 10980–000.

c. *Date filed:* July 30, 1990.

d. *Applicant:* L.B. Industries, Inc.

e. *Name of project:* Caballo Dam Water Power Project.

f. *Location:* On the Rio Grande River in Sierra County, New Mexico.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. § 791 (a)–825(r).

h. *Applicant contact:* Paul Nolan, 8219 N. 19th Street, Arlington, Virginia 22205, (703) 534–5509.

i. *Commission Contact:* Nanzo T. Coley, (202) 357–0840.

j. *Comment date:* November 16, 1990.

k. *Description of project:* The applicant proposes to utilize the head and flows created by the Bureau of Reclamation's Caballo dam. The proposed project would consist of: (1) A 100-foot-long penstocks; (3) a proposed powerhouse containing two generating units rated at 1,500 kW each; (4) a proposed tailrace; (5) a proposed 13.2-kV, 150-foot-long transmission line; and (6) appurtenant facilities. The estimated average annual energy output for the project is 15,000,000 KWh. The applicant estimates the cost of the work to be performed under the preliminary permit at $120,000.

l. *Purpose of project:* Power produced at the project would be sold to a utility company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

18 a. *Type of application:* Preliminary Permit.

b. *Project no.:* 10984–000.

c. *Date filed:* August 1, 1990.

d. *Applicant:* Snoqualmie River Hydro.

e. *Name of project:* Upper South Fork Snoqualmie Creek.

f. *Location:* In Snoqualmie National Forest, on South Fork Snoqualmie Creek, in King County, Washington. Township 22 N Range 10 E.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. § 791 (a)–825(r).

h. *Applicant contact:* Mr. Bill E. Covin, Snoqualmie River Hydro, 1422–130th Avenue NE., Bellevue, WA 98005, (206) 455–0234.

i. *FERC contact:* Michael Spencer at (202) 357–0846.

j. *Comment date:* November 16, 1990.

k. *Description of project:* The proposed project would consist of: (1) A 10-foot-high concrete dam; (2) a 42-inch-diameter, 15,000-foot-long penstock; (3) a powerhouse containing one generating unit with a capacity of 4,200 kW and an estimated average annual generation of 15.3 GWh; (4) a 1.25-mile-long transmission line; and (5) access roads with a total length of 300 feet ot service the powerhouse and diversion sites.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $300,000.

l. *Purpose of project:* Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

19 a. *Type of application:* Preliminary Permit.

b. *Project No.:* 10988–000.

c. *Dated filed:* August 6, 1990.

d. *Applicant:* City of Granite Falls, MN.

e. *Name of project:* Minnesota Falls Hyro Project.

f. *Location:* Minnesota River, Yellow Medicine and Chippewa Counties, Minnesota.

g. *Filed pursuant to:* Federal Power Act. 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. William Lavin, City Manager, 885 Prentice, Granite Falls, MN 56241, (612) 564–3011.

i. *FERC contact:* Ed Lee (tag) (202) 357–0809.

j. *Comment date:* October 31, 1990.

k. *Description of project:* The project would consist of: (1) An existing earth, stone, and concrete dam 482 feet long and 18 feet high; (2) an existing reservoir of 150 acres surface area and 735 acre-feet storage volume at a normal maximum surface elevation of 884 feet mean sea level; (3) a proposed canal or conduit 175 feet long; (4) a proposed powerhouse containing two proposed turbine-generators of 1,160 kW combined capacity; (5) a proposed 2-mile-long, 12.7-kV transmission line; and (6) appurtenant facilities. The estimated annual energy production is 4.1 GWh. Project power would be used by the City of Granite Falls. The existing facilities are owned by Northern States Power Company. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000 to $20,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

20 a. *Type of application:* Preliminary Permit.

b. *Project No.:* 10992–000.

c. *Dated filed:* August 15, 1990.

d. *Applicant:* Windsor Machinery Company, Inc.

e. *Name of project:* Marlboro Mills.

f. *Location:* On the Lattintown Creek in Ulster County, New York.

g. *Filed pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Harry A. Terbush, 16 Orbit Lane, Hopewell Junction, NY 12533, (914) 897–4194.

i. *FERC contact:* Charles T. Raabe (202) 357–0811.

j. *Comment date:* October 31, 1990.

k. *Description of project:* The proposed project would consist of: (1) An existing gravity dam 20 feet high and 40 feet long at elevation 180 feet msl owned by William Lyons and Nancy Dalby; (2) a small existing impoundment with a normal surface elevation of 180 feet msl; (3) a proposed 24-inch-diameter penstock approximately 800 feet long; (4) a proposed 12-foot-wide and 12-foot-long powerhouse to contain one turbine/generator with an installed capacity of 300 kW with flows discharging directly into the stream; (5) a proposed three phase 13.2-kV transmission line 300 feet long; and (6) apputentant facilities. The estimated average annual energy produced by the project would be 984,500 kWh operating under a net hydraulic head of 175 feet. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $15,400. Project energy would be sold to Central Hudson Gas and Electric Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

21 a. *Type of application:* Preliminary Permit.

b. *Project No.:* P–10993–000.

c. *Dated filed:* August 15, 1990.

d. *Applicant:* North American Hyrdo, Inc.

e. *Name of project:* Paw Paw Dam Project.

f. *Location:* On Paw Paw River near the Village of Paw Paw, Van Buren County, Michigan.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. §§791(a)–825(r).

h. *Applicant contact:* Mr. Loyal Gake, North American Hyrdo, Inc., P.O. Box 167, Neshkoro, WI 54960, (414) 293–4628.

i. *FERC contact:* Michael Dees (202) 357–0807.

j. *Comment date:* October 31, 1990.

k. *Description of project:* The proposed project would consist of: (1) An existing dam 685 feet long and 27 feet high; (2) an existing powerhouse housing a 250-kW hydropower unit; (3) an existing tailrace; (4) a tie-in to an existing 2.4-kV transmission line which passes over the powerhouse; (5) and appurtenant facilities. The equipment is in place but is not operating. The applicant estimates that the annual energy generation would be 600 MWH and that the cost of the studies to be performed under the permit would be $25,000. The energy would be sold the Village of Paw Paw. The dam is owned by the Village of Paw Paw, Michigan.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

22. *Type of application:* Preliminary Permit.

b. *Project No.:* 10994–000.

c. *Dated filed:* August 15, 1990.

d. *Applicant:* North American Hyrdo, Inc.

e. *Name of project:* Mauston Dam Hyrdo, Inc.

f. *Location:* On the Lemonweir River, in the City of Mauston, Juneau County, Wisconsin.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. §§791(a)–825(r).

h. *Applicant contact:* Mr. Loyal Gake, Mr. Charles Alsberg, P.O. Box 167, Neshkoro, WI 54960.

i. *FERC contact:* Mary C. Golato (tag) (202) 357–0804.

j. *Comment date:* November 16, 1990.

k. *Description of project:* The proposed project would consist of the following facilities: (1) An existing concrete dam 215 feet long; (2) an existing reservoir with a storage capacity of 1,150 acre-feet, 828 acres in surface area, and a water surface elevation of 96.2 feet msl; (3) a rehabilitated powerhouse containing two generating units at a total installed capacity of 400 kilowatts; (4) an existing tailrace channel; and (5) an existing 12.478-kilovolt transmission line. The applicant estimates that the average annual energy generation would be 800,000 kilowatthours and that the cost of the studies would be $25,000. The dam is owned by the City of Mauston.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

23 a. *Type of application:* Preliminary Permit.

b. *Project no.:* 10995–000.

c. *Date filed:* August 23, 1990.

d. *Applicant:* Windsor Machinery Company, Inc.

e. *Name of project:* Firthcliffe Hydro Project.

f. *Location:* On the Moodna River, near Cornwall, Orange County New York.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant contact:* Mr. Philip E. Terbush, 16 Orbit Lane, Hopewell Junction, NY 12533, (914) 897–4194.

i. *FERC contact:* Ed Lee (dmt), (202) 357–0809.

j. *Comment date:* November 16, 1990.

k. *Description of project:* The proposed run-of-river project would consist of: (1) The existing 162-foot-long and 8.5-foot-high concrete dam; (2) the existing 3.5-acre reservoir; (3) a proposed 6-foot-diameter, 100-foot-long penstock; (4) a new concrete powerhouse housing one 250-kW generating unit; (5) a proposed tailrace; (6) a new 600-foot-long, 13.2-kV transmission line; and (7) appurtenant facilities. The applicant estimates that the average annual generation would be 803 MWh. The cost of the work and studies to be performed under the permit would be $15,400. The site is owned by the Moodna Creek Development, Ltd., Middletown, New York. The applicant proposes that all power generated will be sold to Central Hudson Gas and Electric Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

24 a. *Type of application:* Preliminary Permit.

b. *Project no.:* 10997–000.

c. *Date filed:* August 27, 1990.

d. *Applicant:* Adirondack Hydro Development Corporation.

e. *Name of project:* Delta Dam Hydro Project.

f. *Location:* On the Delta Lake/Mohawk River in the Towns of Lee and Western/City of Rome, in Oneida County, New York.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant contact:* Wilbur W. Krueger, President and CEO, Adirondack Hydro Development Corporation, Civic Center Plaza, Suite 100, 5 Warren Street, Glen Falls, NY 12801, (518) 761–3085.

i. *FERC contact:* Mary C. Golato, (202) 357–0804.

j. *Comment date:* November 16, 1990.

k. *Description of project:* The proposed project consists of the following facilities: (1) An existing cyclopean, concrete gravity dam 1,016 feet long and 86 feet high; (2) an existing reservoir with a storage capacity of 64,280 acre-feet, a surface area of 2,700 acres, and a surface elevation of 550 feet mean sea level; (3) a proposed powerhouse with a single generating unit at a rated capacity of 3,400 kilowatts; (4) a proposed 13.2-kV transmission line extending 1,000 feet; (4) a proposed 13.2-kV transmission line extending 1,000 feet; and (5) appurtenant facilities. The dam is owned by the State of New York. The average annual generation would be approximately 12,316,900 kilowatthours. The cost of the studies is estimated to be about $95,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

25 a. *Type of application:* Revised Recreation Plan.

b. *Project No.:* 2310–039.

c. *Date filed:* September 4, 1990.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of project:* Drum-Spaulding Project.

f. *Location:* Nevada and Placer Counties, California.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. Sec. 791(a)–825(r).

h. *Applicant contact:* Mr. Chris McNeece, Pacific Gas and Electric Company, 245 Market Street, Room 518, San Francisco, CA 94106, (415) 973–1956.

i. *FERC contact:* Dan Hayes, (202) 357–0670.

j. *Comment date:* November 5, 1990.

k. *Description of project:* Pacific Gas and Electric Company, licensee for the Drum-Spaulding Project has filed a revised recreation plan for the various project reservoirs. The revised plan is the result of a three year study of the outdoor recreational use and needs of the project. The revised plan includes expansion and enhancement of existing recreation facilities, construction of facilities contemplated under previous recreation plans, and the addition of new facilities not previously contemplated. The expanded and new facilities are to include campground and trailhead parking areas and will be constructed on PG&E, US Forest Service, and private land (White Rock Lake and Meadow Lake).

l. This notice also consists of the following standard paragraphs: B, C, and D2.

Standard Paragraphs

A3. *Development application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. *Development application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. *Preliminary permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed scope of studies under permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, protests, or motions to intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and service of responsive documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027 (810 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Public Law No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. Section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. *Agency comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency comments*—The Commission requests that the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agenc(ies), for the purposes set forth in section 408 of the

Energy Security Act of 1980, file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 17, 1990, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 90-22361 Filed 9-20-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3832-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 3, 1990 through September 7, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-COE-H36143-KS Rating EO2, Cross Creek Flood Protection Plan, Section 205 Small Flood Control Project, Implementation, City of Rossville, Shawnee County, KS.

Summary: EPA expressed objections to the draft EIS because of the lack of discussion of an alternative that retains the stream character of Cross Creek and provides adequate flood protection. The draft detailed project report and draft EIS does not sufficiently identify and discuss how the proposed project will impact surrounding wetlands.

ERP No. D-MMS-L02019-AK Rating EO2, 1991 Chukchi Sea Outer Continental Shelf (OCS) Oil and Gas Sale 126, Leasing, AK.

Summary: EPA has environmental objections due to uncertainty about whether stipulations will be included in the sale, uncertainty about the effectiveness of mitigating stipulations, and the potential long-term disturbance effects on endangered bowhead whales if leasing occurs anywhere in the spring migration area. EPA believes that adverse effects could be reduced by implementation of the Point Lay deferral alternative in conjunction with implementation of appropriate mitigation. Additional information or clarification is needed regarding the effectiveness of stipulations to lessen impacts, oil transportation assumptions, wetland impacts, the analysis of effects to endangered bowhead whales, and how the analysis adds the effects from exposure to several effect producing activities.

ERP No. D-USN-E11025-KY Rating LO, Naval Ordnance Station Louisville Base Closure and Realignment, Implementation, City of Louisville, Jefferson County, KY.

Summary: EPA feels that while there are a number of economic and societal ramifications associated with the proposed station closure, the impacts to the natural environment are within acceptable limits.

Final EISs

ERP No. F-COE-C30008-NJ, Sandy Hook to Barnegat Inlet Beach Erosion Control Project, Section I-Sea Bright to Ocean Township, Implementation, Northern End of New Jersey's Atlantic Coast, Monmouth County, NJ.

Summary: EPA feels information presented in the final EIS addressed concerns with respect to impacts to water quality and benthos. Accordingly, EPA has no objection to implementations of the project as proposed.

ERP No. F-COE-K39028-CA, Batiquitos Lagoon Enhancement Project, Restoration and Improvement, Implementation, City of Carlsbad, San Diego, County, CA.

Summary: EPA expressed continuing concerns with the absence of an active vegetation planting program for lagoon restoration and that project maintenance and monitoring be financed in a manner capable of covering costs necessary to ensure the biological success of the enhanced habitat. EPA requested that several items be included in the Clean Water Act Section 404 permit, including a physical and biological maintenance and monitoring plan and other means to ensure the enhancement of the Batiquitos lagoon.

ERP No. F-FAA-J51010-CO, Colorado Springs Municipal Airport Expansion, Construction of Runway 17L-32R parallel to existing Runway 17R-35L, Construction and Operation, Funding, City of Colorado Spring, CO.

Summary: EPA expressed concerns regarding the degree of land use control to prevent incompatible use near the airport.

ERP No. FS-BLM-J01038-MT, Powder River I Regional Federal Coal Tracts, Leasing, Assessment of Economic, Social and Cultural Impacts on the Northern Cheyenne and Crow Indian Tribes, Yellowstone, Big Horn and Rosebud Counties, MT.

Summary: EPA has no objections to the preferred alternative (alternative 2a).

Regulations

ERP No. R-OSM-A01095-00, 30 CFR part 710; Surface Coal Mining and Reclamation Operations; Initial Regulatory Program (55 FR 27568).

Summary: EPA recommended that the final rule clearly identify the conditions for which the option to reclaim either the Initial or Permanent Program performance standards will apply. EPA also recommended that OSMRE develop a consistent policy with respect to the backfilling and grading requirements, and general reclamation success.

Dated: September 18, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-22460 Filed 9-20-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3832-6]

Environmental Impact Statements; Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information, (202) 382-5073 or (202) 382-5076.

Availability of Environmental Impact Statements filed September 10, 1990 through September 14, 1990, pursuant to 40 CFR 1506.9.

EIS No. 900342, Draft EIS, COE, CA, Port of Long Beach and Los Angeles Phase I 2020 Plan, Channel Improvements and Landfill Development, Los

Angeles County, CA, *Due:* November 5, 1990, *Contact:* John Bellinger, (202) 272–0166.

EIS No. 900343, Draft EIS, AFS, CA, Merced and South Fork Merced Wild and Scenic Rivers Management Plan, Implementation, Sierra and Stanislaus National Forests and Yosemite National Park, Mariposa and Madara Counties, CA, *Due:* November 5, 1990, *Contact:* James L. Boynton, (209) 487–5155.

EIS No. 900344, Draft Supplement, AFS, AR, Ozark—St. Francis National Forest, Land and Resource Management Plan, Additional Information, Implementation, Several Counties, AR, *Due:* November 5, 1990, *Contact:* Lynn Neff, (501) 968–2354.

EIS No. 900345, Draft EIS, BLM, CA, South Fork Eel Wild and Scenic River Management Plan, Implementation, Arcata Resource Area, Ukiah District, Mendocino County, CA, *Due:* November 20, 1990, *Contact:* Linda Hansen, (707) 462–3873.

EIS No. 900346, Second Final EIS, AFS, ID, Cuddy Mountain Roadless Area, Grade/Dukes Timber Sale and Road Construction, Payette National Forest Land and Resource Management Plan, Implementation, Washington and Adam Counties, ID, *Due:* October 22, 1990, *Contact:* Phil Gilman, (208) 634–1304.

EIS No. 900347, Final EIS, NPS, GA, US 27/GA–1/LaFayette Road Relocation, US 27 near County Road 144 on the south and GA–2 at US 27 on the north, Approval and 404 Permit, Walker and Catoosa Counties, GA, *Due:* October 22, 1990, *Contact:* Frank L. Danchetz, (404) 699–4401.

EIS No. 900348, Final EIS, MMS, MXG, 1991 Central, Western and Eastern Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Sales Nos. 131, 135 and 137, Lease Offering, LA, TX, MS, AL and FL, *Due:* October 22, 1990, *Contact:* Jake Lehman, (703) 787–1616.

EIS No. 900349, Draft EIS, COE, AR, Montgomery Point Lock and Dam Construction, McClellan-Kerr Arkansas River Navigation System, Implementation, Desha County, AR, *Due:* November 5, 1990, *Contact:* Bill Mathis, (501) 378–5033.

EIS No. 900350, Second Final Supplement, EPA, FL, Jacksonville Harbor, Canaveral Ocean Dredged Material Disposal Site (ODMDS), Designation, FL, *Due:* October 22, 1990, *Contact:* Wesley Crum, (404) 347–2126.

EIS No. 900351, Draft EIS, UMT, MD, Hunt Valley Light Rail Line Extension, Timonium Fairgrounds Station to Hunt Valley, Funding, Baltimore Central Light Rail Line, Baltimore and Anne Arundel Counties, MD, *Due:* November 8, 1990, *Contact:* John Garrity, (215) 597–4179.

Amended Notices

EIS No. 820593, Draft EIS, UMT, MD, Baltimore North Corridor Transit Improvements, North Corridor to Metro Center, Funding, Baltimore County, MD, *Contact:* Samuel Zimmerman, (301) 333–3366. Published FR 10–22–82—Officially Withdrawn by Preparing Agency.

EIS No. 900103, Draft EIS, EPA, TX, Monticello-Leesburg Surface Lignite Mine Expansion, Construction and Operation, NPDES Permit and COE's Section 404 Permit, Camp County, TX, *Due:* January 1, 1991, *Contact:* Norm Thomas, (214) 655–6444. Published FR 3–30–90—Officially Withdrawn by Preparing Agency.

EIS No. 900141, Draft EIS, EPA, TX, Monticello B–2 Area Surface Lignite Mine Expansion, NPDES Permit and Possible COE 404 Permit, Titus County, TX, *Due:* July 2, 1990, *Contact:* Norm Thomas, (214) 655–2260. Published FR 5–18–90—This is to notify all parties concerned that this is still an active project. It was inadvertently Withdrawn in the 8–31–90 Federal Register.

EIS No. 900293, Draft EIS, COE, FL, Everglades National Park Modified Water Deliveries, Implementation, Central and Southern Florida Project, Dade County, FL, *Due:* October 31, 1990, *Contact:* Dr. Jonathan D. Moulding, (904) 791–2286. Published FR 8–10–90—Review period extended.

EIS No. 900321, Draft EIS, USN, KY, Naval Ordnance Station Louisville Base Closure and Realignment, Implementation, City of Louisville, Jefferson County, KY, *Due:* November 15, 1990, *Contact:* James Haluska, (804) 445–2307. Published FR 8–31–90—Review period extended.

EIS No. 900338, Draft EIS, EPA, OR, Neskowin Regional Sanitary Authority Wastewater Facilities, Construction Grant, Section 404 Permit and NPDES Permit, Tillamook County, OR, *Due:* November 5, 1990, *Contact:* Gerald Opatz, (206) 442–8505. Published FR 8–10–90—Review period extended.

Dated: September 18, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90–22459 Filed 9–20–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3332–5]

Transfer of Data to Contractors

AGENCY: Environmental Protection Agency.

ACTION: Notice of transfer of data and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) will transfer to its contractor, Science Applications International Corporation (SAIC), and their subcontractors: Amendola Engineering, Arthur D. Little, Combustion Engineering Environmental, DPRA, Inc., Hazmed, Research Triangle Institute, and S-Cubed, information which has been, or will be submitted to EPA under the authority of the Resource Conservation and Recovery Act (RCRA). These firms are developing a schedule for reviewing listed hazardous wastes for possible land disposal restrictions; analyzing regulatory options and impacts, human and ecological health effects, and industry and plant profiles; performing chemical and physical analyses of waste samples; and developing materials and planning activities for public education and involvement. Some of the information may have a claim of business confidentiality.

DATES: Transfer of confidential data submitted to EPA will occur no sooner than September 28, 1990.

ADDRESSES: Comments should be sent to Margaret Lee, Document Control Officer, Office of Solid Waste (OS–312), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Comments should be identified as "Transfer of Confidential Data."

FOR FURTHER INFORMATION CONTACT: Margaret Lee, Document Control Officer, Office of Solid Waste (OS–312), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, (202) 382–3410.

SUPPLEMENTARY INFORMATION:

I. Transfer of Data

The U.S. Environmental Protection Agency is required, by the Hazardous and Solid Waste Amendments of 1984 (HSWA) to make determinations concerning land disposal for specified hazardous wastes, and to develop a schedule for reviewing all other listed hazardous wastes for possible land disposal restrictions. EPA is also mandated to list new hazardous waste streams determined to pose a significant public health and environmental hazard. In order to carry out these legislitive mandates, EPA must develop land disposal restriction regulations.

Under EPA Contract 68–WO–0027, SAIC and their subcontractors will assist the Characterization and Assessment Division of the Office of Solid Waste in developing a schedule for reviewing all other listed hazardous wastes for possible land disposal restrictions; analyze regulatory options and impacts, human and ecological health effects, and industry and plant profiles; performing chemical and physical analyses of waste samples; and assist in developing materials and planning activities for public education and involvement. All information would be required, as needed, to fulfill Congressional mandates to determine those wastes which are hazardous for possible disposal controls and restriction. These firms would also need access to the Agency's Industry Studies Data Base (ISDB) to obtain some of the above information. The information being transferred to SAIC and their subcontractors, may have been or will be claimed as confidential business information (CBI).

In accordance with 40 CFR 2.305(h), EPA has determined that SAIC and their subcontractors require access to confidential business information (CBI) submitted to EPA under the authority of RCRA to perform work satisfactorily under the above-noted contract. EPA is issuing this notice to inform all submitters of confidential business information that EPA may transfer to these firms, on a need-to-know basis, CBI collected under the authority of RCRA. Upon completing their review of materials submitted, SAIC and their subcontractors will return all such materials to EPA.

SAIC, and their subcontractors, have been authorized to have access to RCRA CBI under the EPA "Contractor Requirements for the Control and Security of RCRA Confidential Business Information" security manual. EPA will approve the security plans of the contractors and will inspect their facilities, and approve them, prior to RCRA CBI being transmitted to the contractors. Personnel from these firms will be required to sign non-disclosure agreements and be briefed on appropriate security procedures before they are permitted access to confidential information, in accordance with the "RCRA Confidential Business Information Security Manual" and the Contractor Requirements Manual.

Dated: September 12, 1990.

Mary Gade,

Acting Assistant Administrator.

[FR Doc. 90–22454 Filed 9–20–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3833–9]

Science Advisory Board; Radiation Advisory Committee; Radionuclides in Drinking Water Subcommittee; Open Conference Call Meeting; Change of Meeting Dates

Under Public Law 92–463, notice is hereby given that the conference call meeting of the Radionuclides in Drinking Water Subcommittee of the Science Advisory Board's Radiation Advisory Committee scheduled for September 17, 1990 has been canceled. The conference call has been rescheduled for September 28, 1990 from 12 noon to 2 p.m. e.s.t. The purpose of this conference call is to edit the Subcommittee's report on the review of four criteria documents on radionuclides in drinking water.

For further information concerning this meeting, please refer to the notice published in the **Federal Register** on September 4, 1990 (55 FR 35954).

Dated: September 14, 1990.

Donald G. Barnes,

Director, Science Board.

[FR Doc. 90–22547 Filed 9–20–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3833–1]

Section 309(g) of the Clean Water Act; Class I and II Administrative Penalty Assessments

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative penalty assessment under section 309(g) of the Clean Water Act and opportunity to comment.

SUMMARY: Notice is hereby given of the United States Environmental Protection Agency's [U.S. EPA] proposed decision to assess a civil penalty under section 309(g) of the Clear Water Act in the amount of $36,500 against T.B. Wood's Sons Company, Chambersburg, Pennsylvania facility ("Respondent") for allegedly violating the zinc standards contained in the Pretreatment Standards for the Metal Finishing Point Source Category. Persons are invited to submit comments concerning this decision, but to be considered the comments must be received on or before October 22, 1990.

DATES: Comments are due on or before October 22, 1990.

ADDRESSES: Information relevant to the proposed penalty assessment, including any comments received and other nonconfidential information submitted by the Respondent, is on file and may be inspected, and arrangements made for copying, at the U.S. EPA Region III office between the hours of 9 a.m. and 4 p.m., Monday through Friday except holidays. To make arrangements to examine the administrative record contact the person named below:

Lorraine Hanlon (3WM52), Permits Enforcement Branch, U.S. EPA, Region III, 841 Chestnut Building, Philadelphia, PA 19107, telephone (215) 597–8821, [FTS] 597–8221.

SUPPLEMENTARY INFORMATION: EPA is providing notice of proposed administrative penalty assessments for alleged violations of the Clear Water Act ("CWA"). EPA is also providing notice of opportunity to comment on the proposed assessments.

Under section 309(g) of CWA, 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of CWA. EPA may issue such orders after commencing a Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 309(g)(4)(a) of CWA, 33 U.S.C. 1310(g)(4)(a). Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 CFR part 22.

Pursuant to section 309(g) of the Clear Water Act, (CWA), 33 U.S.C. 1319(g), in the matter of T.B. Wood's Sons Company ("Respondent"), EPA Docket No. CWA–III–045, EPA commenced on September 11, 1990, Class II proceedings for the assessment of penalties in the amount of $36,500. The Respondent's facility is located at 440 North Fifth Avenue, Chambersburg, PA 17201. Respondent is engaged in the following activities or operations: The manufacturing of industrial power transmission equipment including "V" belt drives, variable speed drives, timing belt drives, flexible and rigid couplings, and electric motor controls. The Respondent is an indirect discharger of sanitary and process wastewater to the Borough of Chambersburg's publicly owned treatment works. The company is alleged to have violated the zinc standard, monitoring and reporting requirements of the Pretreatment Standards for the Metal Finishing Point Source Category.

Persons wishing to comment on the amount or basis for the proposed assessment are invited to submit a statement to the EPA Regional Administrator, addressed to the attention of the Regional Hearing Clerk (address below), within thirty (30) days from October 22, 1990. All comments received within this thirty (30) day period will be considered in the

formulation of the final penalty assessment order. All comments must include the name, address, and telephone number of the writer and a concise statement of the basis for any comment and any relevant facts on which it is based. All comments should be addressed to: Regional Hearing Clerk (3RC00), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107.

The Respondent against whom the penalty is proposed to be assessed may request a hearing before the Agency on the proposed penalty assessment within twenty (20) days. If such a hearing is held, members of the public who submitted timely comments on the proposed assessment will be notified in writing of the hearing and may request an opportunity to be heard and to submit evidence at the hearing. Should the Respondent not request a hearing, persons who submitted timely comments on the proposed penalty assessment will be given an additional thirty (30) days after issuance of the Final Penalty Assessment Order to petition the Agency to set aside the Final Penalty Assessment Order, and to hold a hearing on the penalty assessment. Such petitions will be granted if the evidence presented by the petitioner is material, and was not considered by the Agency in formulation of the Final Penalty Assessment Order.

Any person interested in a particular case or group of cases may leave his/her name, address, and telephone number on a registry of interested persons which will be maintained in each file. The list of names will be maintained as a means for persons with an interest in the case to contact others with the same interest.

Dated: September 11, 1990.

Victoria P. Benett,

Acting Director, Water Management Division.

[FR Doc. 90-22439 Filed 9-20-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Existing information collection in use without OMB control.

Title: Damage Survey Report.

Abstract: The information will be collected with input from State and Local Governments describing in detail facilities that have been damaged in a major disaster. Following a major disaster declaration by the President, the State and Disaster Recovery Manager arranges for damage surveys to be made by teams of Federal and State inspectors, plus a local representative. The following FEMA Forms are completed and are attached as supporting justification to the applicant's project application: FEMA Form 90-91, Damage Survey Report-Data Sheet, completed by the Federal inspector for each damaged facility and for each item of emergency and permanent work identified by the local representative for each damaged facility; FEMA Form 90-3, Pumping Equipment, provides information on any damaged pumping equipment, FEMA Form 90-51, Building Survey, provides information on damage to buildings; and FEMA Form 90-53, Bridge Survey, provides information on any damage to bridges.

Type of Respondents: State or local governments, Federal agencies or employees.

Estimate of Total Annual Reporting and Recordkeeping Burden: 6,075.

Number of Respondents: 12,150.

Estimated Average Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395-7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Dated: September 17, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90-22403 Filed 9-20-90; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Extension of 3067-0161.

Title: Survey of Contractor Responsibility.

Abstract: Form is used to collect financial and historical business data on prospective FEMA contractors. Survey will assist the contracting officer in making the required determination of contractor responsibility.

Type of Respondents: Individual or households. Small businesses or organizations.

Estimate of Total Annual Reporting and Recordkeeping Burden: 245.

Number of Respondents: 150.

Estimated Average Burden Hours Per Response: 1.5.

Frequency of Response: On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror, (202) 646-2624, 500 C Street SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395-7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Dated: September 7, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90-22404 Filed 9-20-90; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Mnagement and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

Type: Existing collection in use without an OMB control number.

Title: Mobile Home Assistance.

Abstract: Information collected to determine site feasibility for the placement of a mobile home; to ensure written permission of property owner to allow the home on the land; and to ensure rights of ingress/egress for the home.

Type of Respondents: Individuals or households.

Estimate of Total Annual Reporting and Recordkeeping Burden: 225.

Number of Respondents: 150.

Estimated Average Burden Hours Per Response: 30 minutes.

Frequency of Reponse: On occasion.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395–7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Dated: September 7, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90–22405 Filed 9–20–90; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–879–DR]

Amendment to Notice of a Major Disaster Declaration; Iowa

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA–879–DR), dated September 6, 1990, and related determinations.

DATED: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Iowa, dated September 6, 1990, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 6, 1990:

Bremer County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 90–22406 Filed 9–20–90; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–879–DR]

Amendment to Notice of a Major Disaster Declaration; Iowa

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA–879–DR), dated September 6, 1990, and related determinations.

DATED: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Iowa, dated September 6, 1990, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 6, 1990:

The counties of Howard and Jones for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Robert G. Chappell,

Assistant Associate Director, Disaster Assistance Programs, Federal Emergency Management Agency.

[FR Doc. 90–22407 Filed 9–20–90; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–879–DR]

Amendment to Notice of a Major Disaster Declaration; Iowa

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa (FEMA–879–DR), dated Sptember 6, 1990, and related determinations.

DATED: September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

NOTICE: The notice of a major disaster for the State of Iowa, dated September 6, 1990, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 6, 1990:

The counties of Howard, Johnson, Winnesheik, and Worth for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 90–22408 Filed 9–20–90; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–876–DR]

Amendment to Notice of a Major Disaster Declaration; New Hampshire

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire (FEMA–876–DR), dated August 29, 1990, and related determinations.

DATED: September 11, 1990.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

NOTICE: The notice of a major disaster for the State of New Hampshire, dated August 29, 1990, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 29, 1990:

Hillsborough County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency

[FR Doc. 90–22409 Filed 9–20–90; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Georgia Ports Authority/Jugolinija Terminal Agreement, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street

NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200416

Title: Georgia Ports Authority/Jugolinija Terminal Agreement.

Parties:

Georgia Ports Authority (GPA)

Jugolinija.

Synopsis: The Agreement provides that GPA will perform certain terminal services for Jugolinija at Containerport, Savannah, Georgia. The Agreement sets forth a consolidated per container rate for wharfage, dockage and land lease, and also provides certain per container rates for rail receiving and delivery, use of the computer import clearance system and stack utilization services. The rates will increase each October 1 in an amount equal to the U.S. Consumer Price Index but not to exceed 6 percent. The term of the Agreement is for two years and may be extended for two additional 3-year periods.

Agreement No.: 224–200417

Title: Georgia Ports Authority/Hoegh Lines Terminal Agreement.

Parties:

Georgia Ports Authority (GPA)

Hoegh Lines (Hoegh).

Synopsis: The Agreement guarantees certain berthing rights to Hoegh vessels docking at GPA's Ocean Terminal and Garden City Terminal, Savannah, Georgia. Dockage will be assessed pursuant to GPA's terminal tariff. At the end of each 12-month period, GPA agrees that it will refund to Hoegh, for each day dockage charged, $1,250 on D-class vessels and $1,000 on C-class vessels which have called at GPA's terminals. The term of the Agreement is for one year with an option to renew the Agreement for successive 1-year periods.

By Order of the Federal Maritime Commission.

Dated: September 17, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–22341 Filed 9–20–90; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public; Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Costa Crociere S.P.A. and Mediterranean Cruise S.P.A., World Trade Center, 80 S.W. 8th Street, Miami, Florida 33130–3097

Vessel: Costa Marina.

Dated: September 17, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–22375 Filed 9–20–90; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Costa Cruises, Inc., and Costa Crociere S.P.A., World Trade Center, 80 S.W. 8th Street, Miami, Florida 33130–3097

Vessel: Costa Marina.

Dated: September 17, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–22376 Filed 9–20–90; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

The American Family Circle, Inc., P.O. Box 91328–0809, Long Beach, CA 90809. Officers: Robert W. Carrigan, President, Barbara A. Carrigan, Secretary/Treasurer.

Blue Ocean Corp. dba Mozart Forwarding, 92 Fulton Street, New York, NY 10038. Officer: Peter Karouta, President.

Supertrans International, Inc., 409 N. Oak Street, Inglewood, CA 90302. Officers: David M.J. Lee, President, Bob Jan, Secretary.

Sam Young Transportation Inc., 14 East Wesley St., South Hackensack, NJ 07606. Officers: Joon Yoon, President, UI C Choe, Director.

Aleida Customs Brokers Inc., 7938 NW 66 St., Miami, FL 33166. Officers: Aleida Fontao, President, Antonio Fontao, Treasurer.

AEL Specialists, Inc., 3700 Bells Lane, Louisville, KY 40211. Officers: Judy A. Matthews, President/Director, Paul E. Schmitt, Stockholder, Robert L. Hawkins, Stockholder, George E. Mercker, Director/Secretary/Treasurer.

Urie Transportation Management Inc. dba Urie, Summers Northwest Express, 2601 Elliott Ave., suite 5145, Seattle, WA 98121. Officers: Dan E. Urie, President, Robert B. Summers, Exec. Vice President, William A. Swann, Director—Operations/Secretary.

Indonesia Nusantara Freight Forwarding Services, 17338 S. Denker Ave., Gardena, CA 90247, Ernest A. Fransz, Sole Proprietor.

Delta Express, 500 S. William St., Mt. Prospect, IL 60056, Song Nam Chun, Sole Proprietor.

Ram-Forwarding, Inc., 16538 Air Center Boulevard, Houston, TX 77032 Officers: Norbert A. Juergen, President/Director, Nancy J. Juergen, Vice President, Clyde L. McGuire, V.P. Ocean Freight Export.

Atlantic Trade & Service Co., 2315 NW 107th Ave., Miami Free Zone, Box 123, Miami, FL 33172. Officers: Zaid Jaleel, President, Dr. Aleem Mohammed, Vice President, Ebrahim Shah, Director, Nello P. Khan, Director.

Kosmo International, Inc., 2050 Center Ave., suite 310, Fort Lee, NJ 07024. Officers: Moo W. Park, President, Samuel Hong, Secretary, Sam K. Ma, Director.

Helm Freight Forwarders Corp., 66–00 Long Island Expressway, Maspeth, NY 11378. Officers: Thomas Falotico, Vice President, Joseph M. Pellettiere, President.

Honeybee International Forwarding, 5680 Ayala Ave., Irwindale, CA 91706. Officer: Samih Salim Abushousheh, President.

W.A. Smith International, Incorporated, 7522 Connelley Dr., suite K, Hanover, MD 21076. Officers: Wayne A. Smith, Sr., President/Director/Stockholder, Wayne A. Smith, Jr., Secretary.

BDG International, Inc., 846 B Foster Avenue, Bensenville, IL 60106. Officers: Mark Reed Anderson, President, Kerstin G. Anderson, Secretary/Treasurer, N. Stewart Skaggs, Stockholder/Manager.

Customers Services International, Inc., 8249 Northwest 36th Street, #209, Miami, FL 33166. Officers: David Keith Newton, President, Gerald W. Duke, Vice President, Howard Keith Newton, Stockholder, Roman Redlow, Vice President.

Dated: September 17, 1990.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90-22340 Filed 9-20-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Commercial Corp., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating now the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 1990.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Commercial Corporation*, Little Rock, Arkansas; to engage *de novo* through its subsidiary, First Commercial Trust Company, National Association, Little Rock, Arkansas, in trust department activities pursuant to section 225.25(b)(3); and investment advisory activities pursuant to section 225.25(b)(4) of the Board's Regulation Y. These activities will be conducted in Arkansas and Tennessee.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First National of Nebraska, Inc.*, Omaha, Nebraska; to engage *de novo* through its subsidiary, First of Nebraska Interim Federal Savings I, Omaha, Nebraska, in operating a savings and loan association pursuant to § 225.25(b)(9) of the Board's Regulation Y. First of Nebraska Interim Federal Savings I, Omaha, Nebraska, is a *de novo* thrift formed to acquire the Chadron, Nebraska branch office of FirsTier Savings Bank, FSB, formerly a branch of Occidental Nebraska Savings Bank, and which will then be merged into Applicant's subsidiary, First National Bank, Platte, Nebraska, as part of an OAKAR transaction.

Board of Governors of the Federal Reserve System, September 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-22377 Filed 9-20-90; 8:45 am]

BILLING CODE 6210-01-M

Walter G. Fries; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than October 5, 1990.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Walter G. Fries*, Wabasha, Minnesota; to acquire 32.68 percent of the voting shares of Klossner Bancorporation, Inc., Klossner, Minnesota, and thereby indirectly acquire Klossner State Bank, Klossner, Minnesota, and Houston State Bank, Houston, Minnesota.

Board of Governors of the Federal Reserve System, September 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-22378 Filed 9-20-90; 8:45 am]

BILLING CODE 6210-01-M

Klossner Bancorporation, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 11, 1990.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Klossner Bancorporation, Inc.*, Klossner, Minnesota; to merge with

Security State Investments, Inc., Houston, Minnesota, and thereby indirectly acquire Security State Bank of Houston, Houston, Minnesota.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Assistant Vice President) 101 Market Street, San Francisco, California 94105:

1. *Wells Fargo & Co.*, San Francisco, California; to acquire 100 percent of the voting shares of Citizens Holdings, Anaheim, California, and thereby indirectly acquire Citizens Bank of Costa Mesa, Costa Mesa, California, and El Camino Bank, Anaheim, California.

Board of Governors of the Federal Reserve System, September 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-22379 Filed 9-20-90; 8:45 am]

BILLING CODE 6210-01-M

Provident Bancorp, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1343(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Provident Bancorp, Inc.*, Cincinnati, Ohio; to acquire Suburban Federal Savings and Loan Association of Covington, Covington, Kentucky, and thereby engage in savings and loan activities pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-22380 Filed 9-20-90; 8:45 am]

BILLING CODE 6210-01-M

Skandinaviska Enskilda Banken; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR. § 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 11, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Skandinaviska Enskilda Banken, Stockholm, Sweden; to acquire Scandinavian American Securities, Inc., New York, New York, and thereby engage in providing securities brokerage services, related securities credit activities, and incidental activities such as offering custodial services, primarily for the account of U.S. and foreign customers of SAS, in each case under circumstances where the securities brokerage services are restricted to buying and selling securities solely as agent for the account of customers and do not include securities underwriting, dealing, investment advice or research services pursuant to § 225.25(b)(15); and Cambridge International Partners C.P., New York, New York, and thereby engage in acting as financial adviser, either on a retained or success fee basis, in providing corporate finance advisory services, including advice concerning domestic and internatioanl mergers, acquisitions, joint ventures and divestitures, financings, and the structuring of leveraged buyouts and other capital-raising vehicles.

Scandanavian Bank Group PLC 76 Federal Reserve Bulletin 311 (1990).

Board of Governors of the Federal Reserve System, September 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-22381 Filed 9-20-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies,

in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the permerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 082090 AND 083190

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN Number	Date Terminated
United Water Resources Inc., Pennsylvania Enterprises, Inc., Pennsylvania Gas & Water Company	90-1938	08/20/90
Enron Corp., Hall-Houston Offshore, Hall-Houston Offshore	90-1963	08/20/90
Beech Holdings Corp., Diversified Services, Inc., Diversified Services, Inc.	90-1954	08/21/90
Oglebay Norton Company, Bethlehem Steel Corporation, Bethlehem Steel Corporation	90-1990	08/22/90
Shearson Lehman Hutton Merchant Banking Portfolio LP, Infinity Broadcasting Corporation, Infinity Broadcasting Corporation	90-1972	08/23/90
Carter Holt Harvey Limited, Harlin Holdings Pty. Limited, Elders Resources NZFP Limited	90-1989	08/23/90
Colgate-Palmolive Company, Scherer Healthcare, Inc., Scherer Laboratories, Inc.	90-1069	08/24/90
BTR plc, Ivaco Inc., Niagara Lockport Industries, Inc.	90-1905	08/24/90
Melville Corporation, Imasco Limited, Peoples Drug Stores, Incorporated	90-1920	08/24/90
Texaco Inc., SCEcorp, Southern California Edison Company	90-1974	08/24/90
James Crean plc, Valley Fresh Foods, Inc., Valley Fresh, Inc.	90-1991	08/24/90
Takashi Chiba, H. F. Holdings, Inc., HonFed Bank, A Federal Savings Bank	90-2019	08/24/90
The Edward W. Scripps Trust, George N. Gillett, Jr., Gillett Broadcasting of Maryland, Inc.	90-2025	08/24/90
Massachusetts Mutual Life Insurance Co., British & Commonwealth Holdings PLC, Maximum Holdings Inc.	90-2017	08/27/90
Continental Medical Systems, Inc., Kenneth and Lynn Hubbard, Communi-Care of America, Inc., Pro-Rehab, Inc.	90-1964	08/28/90
Lawson Mardon Group Limited, H. S. Crocker Company, Inc., H. S. Crocker Company, Inc.	90-1965	08/28/90
Onoda Cement Co., Ltd., Jane A. Hallock, Greenline Leasing Co. Inc., Arlington Sand & Gravel Co.	90-1976	08/28/90
Tomio Nitta, Leo R. B. Henrikson, Cottonwood Golf Course and Cottonwood Bar and Grill	90-1987	08/28/90
American Telephone and Telegraph Company, Ford Motor Company, United States Instrument Rentals, Inc.	90-2018	08/28/90
Bouygues, S. A., ENSERCH Corporation, Losinger, AG	90-2036	08/28/90
Warburg, Pincus Capital Company, L.P., Larry Dunigan, One Call Communications, Inc. and Holiday Leasing Corp.	90-1910	08/29/90
H. J. Heinz Company, Mr. Michael Ruvolo, Tasty Frozen Products, Inc.	90-1958	08/29/90
Algemene Bank Nederland N.V., Ryder System, Inc., Ryder System, Inc.	90-1984	08/30/90
Manor Care, Inc., USIF, Real Estate,** Econo Lodges of America, Inc. & F I Hotel Corp.	90-2024	08/30/90
John J. Nevin, Fulcrum II Limited Partnership, Beech Holdings Corporation	90-2031	08/30/90
General Accident, p.l.c., Royal Insurance Holdings, plc, Silvey Corporation	90-2012	08/31/90
Compagnie des Machines Bull, Honeywell Inc., Honeywell Federal Systems Inc.	90-2028	08/31/90
David L. Goldman, Harrisons & Crosfield plc, Harcros Chemicals, Inc.	90-2029	08/31/90
Our Own Hardware Company, Amdura Corporation, Debtor-in-Possession, Amdura National Distribution Company	90-2032	08/31/90
Technology Applications Limited, Merrill Lynch & Co., Inc., Code-A-Phone Corporation	90-2039	08/31/90
ITT Corporation, The Equitable Life Assurance Society of the U.S., The Equitable Life Assurance Society of the U.S.	90-2043	08/31/90
JWP Inc., Compumat, Inc., Compumat, Inc.	90-2045	08/31/90
JWP Inc., Compumat, Inc., Compumat, Inc.	90-2046	08/31/90

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202)326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90-22430 Filed 9-20-90; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3301]

Institut Merieux S.A.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Lyon, France based firm that sells rabies vaccine and inactivated polio vaccine in the United States, to lease a rabies vaccine business—acquired from Connaught BioSciences, Inc.—in Toronto, Ontario, Canada, for at least 25 years, to a Commission-approved lessee. Respondent also is required, for a period of ten years, to obtain FTC approval before acquiring any interest in a company that produces a human vaccine for a disease for which it currently manufactures a vaccine.

DATES: Complaint and Order issued August 6, 1990.[1]

FOR FURTHER INFORMATION CONTACT: Claudia Higgins, FTC/S-2308, Washington, DC 20580. (202) 326-2682.

SUPPLEMENTARY INFORMATION: On Wednesday, January 17, 1990, there was published in the **Federal Register**, 55 FR 1614, a proposed consent agreement with analysis In the Matter of Institut Merieux S.A., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order in disposition of this proceeding.

Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45,18.

Donald S. Clark,

Secretary.

[FR Doc. 90-22431 Filed 9-20-90; 8:45 am]

BILLING CODE 6760-01-M

[1] Copies of the Complaint, the Decision and Order, and a Statement by Commissioner Owen are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service; Lake Henry Vortac Site, Lackawanna County, PA; Transfer of Property

[Wildlife Order 175; 4-U-PA-736]

Pursuant to section 2 of Public Law 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667b), notice is hereby given that

1. By deed from the General Services Administration dated March 27, 1990, the property, consisting of 113.87 acres unimproved, known as Lake Henry Vortac Site, Pennsylvania, was transferred to the State of Pennsylvania.

2. The above described property was conveyed for the purpose of wildlife conservation in accordance with the provisions of section 1 of said Public Law 80-537 (16 U.S.C. 667b), as amended by Public Law 92-432.

Dated: September 5, 1990.

Earl E. Jones,

Commissioner, Federal Property Resources Service.

[FR Doc. 90-22385 Filed 9-20-90; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

On Fridays, the Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction act (44 U.S.C. chapter 35). The following are those information collections recently submitted to OMB.

1. IV-A Perspectives Questionnaire—New—A natical survey of local welfare office eligibility workers will be conducted to measure the level of understanding of the provisions of the Family Support Act of 1988. The information will be used in the development of training and technical assistance materials. *Respondents:* Local welfare office eligibility workers; *Number of Responses:* 3000; *Frequency of Response:* one time; *Average Burden per Response:* 28 minutes; *Total Burden:* 1400 hours.

2. Request for Advance or Reimbursement (PMS 270)—Extension No Change—0990-0059—This form is used for advance payments of grants, reimbursements, and financial management. It is used in place of the SF-270. *Respondents:* state or local governments, businesses or other for-profit, non-profit institutions, small businesses; *Frequency of Response:* monthly; *Average Burden per Response:* 15 minutes; *Total Annual Burden:* 20,991 hours.

3. Federal Cash Transaction Report (PMS 272)—Extension No Change—0990-0078—This form is used for grant monitoring, disbursement reporting, and financial management. It is used in place of the SF-272. *Respondents:* state or local governments, businesses or other for-profit, non-profit institutions, small businesses; *Frequency of Response:* quarterly; *Average Burden per Response:* 4 hours; Total Annual burden: 144,000 hours.

OMB Desk Officer: Allison Herron.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 619-0511. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated September 12, 1990.

James F. Trickett,

Deputy Assistant Secretary for Management and Acquisition.

[FR Doc. 90-22302 Filed 9-20-90; 8:45 am]

BILLING CODE 4150-04-M

Agency for Health Care Policy and Research

Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1990:

Name: Health Services Developmental Grants Review Subcommittee.

Date and time: October 24-26, 1990, 8:30 a.m.

Place: Holiday Inn—Crowne Plaza, Halpine Room, 1750 Rockville Pike, Rockville, Maryland.

Open October 24, 8 a.m. to 9 a.m.

Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications proposing to do analysis of data derived from experiments and demonstrations designed to test the cost-effectiveness or efficiency of particular methods of health services delivery and financing, for the research grants program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on October 24 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Acting Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing research and demonstration grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Dr. Gerald E. Calderone, Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Services Research Review Subcommittee.

Date and time: October 18-19, 1990, 8 a.m.

Place: Holiday Inn—Crown Plaza, Parklawn Room, 1750 Rockville Pike, Rockville, Maryland.

Open October 18, 8 a.m. to 9 a.m.

Closed for remainder of meeting.

Purpose; The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research.

Agenda: The open session of the meeting on October 18 from 8 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Acting Administrator, AHCPR. During the closed sessions, the Subcommittee will be reviewing analytical and theoretical research grant applications relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. B. William Lohr, Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Care Technology Study Section.

Date and time: October 15-17, 1990, 8 a.m.

Place: Parklawn Building, Maryland Room, 560 Fishers Lane, Rockville, Maryland.

Open October 16, 8 a.m. to 9 a.m.

Closed for remainder of meeting.

Purpose: The Study Section is charged with conducting the initial review of health services research grant applications addressing the effects of health care technologies and procedures, including those in the area of information sciences, as well as those addressing the process of diffusion and adoption of new technologies and procedures.

Agenda: The open session on October 16 from 8 a.m. to 9 a.m. will be devoted to a business meeting covering administrative matters and reports. There will also be a presentation by the Acting Administrator, AHCPR. The closed sessions of the meeting will be devoted to a review of health services research grant applications emphasizing medical care technologies and procedures, and relating to the delivery, organization, and financing of health services. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Dr. Alan E. Mayers, Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Name: Health Services Research Dissemination and User Liaison Advisory Committee.

Date and time: October 30-31, 1990, 8:30 a.m.

Place: Holiday Inn—Crowne Plaza, Rockville Room, 1750 Rockville Pike, Rockville, Maryland.

Open October 30, 8:30 a.m. to 1 p.m.

Closed for remainder of meeting.

Purpose: The Committee is charged to review and make recommendations on grant applications for Federal support of conferences, workshops, meetings, or projects related to dissemination and utilization of research findings, and agency liaison with health care policy makers, providers, and consumers.

Agenda: The open session of the meeting on October 30 from 8:30 a.m. to 1 p.m. will be devoted to a business meeting covering administrative matters and reports. During the closed portion of the meeting, the Committee will be reviewing grant applications relating to the dissemination of research on the organization, costs, and efficiency of health care. In accordance with the Federal Advisory Committee Act, title 5, U.S. Code, appendix 2 and title 5, U.S. Code 552b(c)(6), the Acting Administrator, AHCPR, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a Roster of Members, Minutes of Meeting, or other relevant information should contact Mr. John D. Gallicchio, Director, Office of Scientific Review, Agency for Health Care Policy and Research, room 18A20, Parklawn Building, 560 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3091.

Agenda items are subject to change as priorities dictate.

Dated: September 11, 1990.

J. Jarrett Clinton,

Acting Administrator, Agency for Health Care Policy and Research.

[FR Doc. 90-22392 Filed 9-20-90; 8:45 am]

BILLING CODE 4160-90-M

Family Support Administration

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reducation Act (44 U.S.C. chapter 35). Following are the four packages submitted to OMB since the last publication.

(For a copy of the package, call the FSA, Report Clearance Officer 202-252-5604).

Refugee Assistance Program Estimates—FSA 601—(0970-0030)

In order to assure effective program planning and meet legislative requirements of the Refugee Act of 1980, (Pub. L. 96-212) States are required to submit annual estimates of the nature, cost and provision of services and assistance to refugees. *Respondents:* state and local governments; *Number of respondents:* 50; *Frequency of Response:* annually; *Estimated average burden per response:* ½ hour; *Estimated annual burden:* 25 hours.

Refugee Program Expenditures—FSA 602—(0970-0096)

In order to issue quarterly grant awards, make adjustments to these awards and report to Congress on State refugee assistance activities and expenditures, States are required to submit expenditure reports on the nature and cost of services and assistance to refugees. *Respondents:* state and local governments; *Number of respondents:* 50; *Frequency of response:* annually for low volume states (21) and quarterly for high volume states (29); *Estimated average Burden per response:* ¾ hour and 2 hours respectively; *Estimated annual burden:* 129 hours.

Quarterly Report of Expenditures and Estimates—FSA 231—(0970-0032)

The data is needed for the AFDC program to make quarterly grant awards, review State expenditures, prepare adjustments to grant awards, establish budget estimates and to serve as the State's estimates of current requirements for a quarterly report to Congress. *Respondents:* state and local governments; *Number of respondents:* 54; *Frequency of response:* quarterly for the expenditures and estimates and semi-annually for the budget projections. *Estimated average burden per response:* 3.66 hours; *Estimated annual burden:* 1188 hours.

Quarterly Report of Expenditures and Estimates—OCSE 131—(0970-0014)

The information and data is needed to compute quarterly grant awards and to estimate incentive payments to States, for required recordkeeping, prepare appropriation requests and to prepare an annual report to Congress. *Respondents:* state and local governments; *Number of respondents:* 54; *Frequency of response:* quarterly for the expenditures and estimates and semi-annually for the budget projections. *Estimated average burden per response:* 3.5 hours; *Estimated annual burden:* 1134 hours.

OMB desk officer: Shannah Koss McCallum.

Written comments and recommendations for the proposed information collection should be sent directly to the OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: September 7, 1990.

Naomi B. Marr,

Associate Administration, Office of Management and Information System.

[FR Doc. 90-21961 Filed 9-20-90; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange

meeting: Detriot District Office, chaired by Carl Reynolds, District Director. The topic to be discussed is the food labeling/serving size proposal.

DATES: Sunday, October 28, 1990, 5 p.m. to 5:30 p.m.

ADDRESSES: The meeting will be televised in northern and central Indiana on several channels. Please check the local television schedule.

FOR FURTHER INFORMATION CONTACT: Janet LeClair, Consumer Affairs Officer, Food and Drug Administration, 101 West Ohio St., Indianapolis, IN 46204, 317-226-6500.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: September 17, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-22390 Filed 9-20-90; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Privacy Act of 1974; Matching Program

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of a Matching Program—The Internal Revenue Service (IRS), the Social Security Administration (SSA), and HCFA—Disclosure of IRS taxpayer identity and filing status information to be matched with SSA earned income information for Medicare beneficiaries and their spouses.

SUMMARY: As required by Section 6202 of the Omnibus Budget Reconciliation Act of 1989 (OBRA 1989), Public Law 101-239, the Department of Health and Human Services is providing public notice that the IRS and the SSA will disclose certain information regarding the taxpayer identification and filing status and the earned income of Medicare beneficiaries and their spouses for HCFA's use in identifying Medicare secondary payer (MSP) situations. This will enable HCFA to seek recovery of identified mistaken payments that were the liability of another primary insurer or other type of payer.

The matching report set forth below is in compliance with the Computer Matching and Privacy Protection Act of 1988 (Pub. L. No. 100-503).

EFFECTIVE DATE: The match will begin no sooner than 30 days after the date of publication in the **Federal Register** and a copy of the Data Match Agreement will be sent to the Senate Committee on Governmental Affairs and the House Committee on Government Operations. The Match shall remain in effect no later than September 30, 1991.

ADDRESSES: Please address comments to: Richard A. DeMeo, HCFA Privacy Act Officer, Health Care Financing Administration, room 108, Security Office Park Building, 7008 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Jackie Sheridan, Division of Operational Initiatives, 367 Meadows East Building, 6300 Security Boulevard, Baltimore, Maryland 21207, telephone (301) 966-7449.

SUPPLEMENTARY INFORMATION: One of the priorities of HHS is to encourage high quality and effective health care while pursuing strategies to contain or moderate health care costs and Medicare program expenditures. As required by the Medicare Act, one approach that HCFA employs to limit Medicare expenditures is the MSP program (42 U.S.C. 1395y(b)).

MSP situations are generally identified by Medicare contractors when a beneficiary submits a claim for payment, and may involve the recovery of mistaken primary payments by HCFA to restore them to the Medicare Trust Fund. The identification of MSP situations and the recovery of mistaken Medicare payments frequently entails demonstrating to the other involved insurer or other type of payer, their primary liability under 42 U.S.C. 1395y(b).

To facilitate the identification of possible MSP situations, section 6202 of Public Law No. 101-239 requires IRS and SSA to match certain records from their files and disclose the resulting information to HCFA. Specifically, IRS records of taxpayer identity and filing status from the IRS Individual Master File (IMF) will be matched with earned income information from SSA's Master Earnings File (MEF). The purpose of this matching program is to enable HCFA and its contractors to determine primary or secondary liability for these expenses. Successful completion of this task as required by the law, will necessitate HCFA's disclosure of the information to other entities.

Based on this verified information, HCFA determines whether a mistaken payment of Medicare funds has been made. Such determinations generate demand letters to the identified insurer or payer. If the insurer or payer proves that it did pay primary, in addition to Medicare's mistaken primary payment, then the beneficiary or provider is contacted by Medicare with a request for return of the duplicate payment. At this time, the beneficiary or provider is provided an opportunity to respond to HCFA's finding that a mistaken payment was made. This determination is then subject to all the appropriate Medicare review and due process procedures.

The Privacy Act allows us to disclose information from HCFA's records without a beneficiary's consent if the information is collected and used for purposes that are consistent with the law. We may also disclose information to Federal, State, local governments, private agencies or to individuals when the purposes for its disclosure are compatible with the reasons for collecting the information and are consistent with the law. Disclosure of information is permitted when the benefit of the use of the information outweighs the effect, or risk of an effect, on the privacy of individuals.

Set forth below is the information required by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. No. 100-503). A copy of this notice will be provided to the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate and the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget by the IRS.

Dated: September 7, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Computer Matching Notice

A. *Name of participating agencies:* Health Care Financing Administration (HCFA), Social Security Administration (SSA), Internal Revenue Service (IRS).

B. *Purpose of match:* The IRS and the SSA are required to disclose certain information regarding the taxpayer identification and filing status and the earned income of Medicare beneficaries and their spouses for HCFA's use in identifying Medicare secondary payer situations. This will enable HCFA to seek recovery of identified mistaken Medicare payments that were the liability of another primary insurer or other type of payer.

c. *Authority for the match:* The match is required by Section 6202 of the

Omnibus Budget Reconciliation Act of 1989 (OBRA 1989), Public Law 101–239.

D. *Records to be matched:*

• The IRS will disclose taxpayer identity information from the Individual Master File (IMF), Treas/IRS 24.030.

• SSA will extract identifying information of Medicare beneficaries from the Master Beneficiary Record, HHS/SSA/OSR 09–60–0090, will validate the taxpayer information from the IMF against the Master Files of Social Security Number Holders (NUMIDENT), HHS/SSA/OSR 09–60–0058, and will extract employer identity information from the Earnings Recording and Self-Employment System, HHS/SSA/OSR 09–60–0059, referred to as the Master Earnings File.

• HCFA will match employment and Employee Group Health Plan (EGHP) information against the Carrier Medicare Claims Records, Privacy Act System DHHS/HCFA/BPO 09–70–0501, and Intermediary Claims Records, Privacy Act System DHHS/HCFA/BPO 09–70–0503, to identify erroneous Medicare payments.

E. *Period of match:* March 1990 through no later than June 1991.

F. *Address of contact:* Jackie Sheridan, Division of Operational Initiatives, 367 Meadows East Building, 6300 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 966–7449.

[FR Doc. 90–22374 Filed 9–20–90; 8:45 am]

BILLING CODE 4120–3

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meetings; National Deafness and Other Communication Disorders Advisory Board Vestibular Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Deafness and Other Communication Disorders Advisory Board on November 9, 1990, and the Vestibular Subcommittee on November 8, 1990, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting of the Vestibular Subcommittee, which will be open to the public, will take place from 1 p.m. to 6 p.m. in Conference Room 7, Building 31C. The discussion will include a comparison of the vestibular research portfolio of the NIDCD to the National Strategic Research Plan to (1) Identify gap areas; (2) recommend levels and areas of research activity; and (3) recommend potential initiatives.

Attendance by the public will be limited to space available.

The meeting of the Advisory Board will be open to the public from 9 a.m. to adjournment at 5 p.m. to discuss the Board's activities and will include reports from the Board's subcommittees. Attendance by the public will be limited to space available.

Summaries of the meetings and rosters of participants may be obtained from Mrs. Monica Davies, National Institute on Deafness and Other Communication Disorders, Building 31, room B2C06, National Institutes of Health, Bethesda, Maryland 20892, 301–402–1129, upon request.

Dated: September 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–22369 Filed 9–20–90; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting (President's Cancer Panel)

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the President's Cancer Panel, National Cancer Institute, October 22, 1990, at the Roger Williams Medical Center, Brown University, Kay Auditorium, 825 Chalkstone Avenue, Providence, RI 02908.

This meeting will be open to the public on October 22 from 8:30 a.m. to 12 noon. Attendance will be limited to space available. Agenda items will include reports by the Chairman, President's Cancer Panel, the Director, NCI, member of the staff of the College and others.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, room 4A32, National Institutes of Health, Bethesda, Maryland 20892 (301/496–1148) will provide a roster of the Panel members and substantive program information upon request.

Dated: September 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90–22368 Filed 9–20–90; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, September 14, 1990.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package)

1. Clinical, Laboratory and Epidemiologic Characterization of Individuals at High Risk of Cancer—0925–0194—A clinical, laboratory and epidemiologic study of individuals in cancer-prone families is necessry to identify and describe the distribution and determinants of cancer in high risk populations. A self-administered questionnaire is mailed to each individual. *Respondents:* Individuals or households; *Number of Respondents:* 600; *Number of Responses per Respondent:* 1; *Average Burden per Response:* .75 hours; *Estimated Annual Burden:* 450 hours.

2. Cooperative Agreements for Research Demonstration Projects on Alcohol and Other Drug Treatment for Homeless Persons—NEW—Clearance is requested for the use of four standardized instruments to evaluate the effectiveness of treatment programs for homeless persons that have alcohol and/or other drug problems. This information collection will fulfill NIAAA's legislatively mandated mission to develop, demonstrate, and evaluate programs for this population. *Respondents:* Individuals or households; *Number of Respondents:* 3,150; *Number of Responses per Respondent;* 3; *Average Burden per Response:* .917 hours; *Estimated Annual Burden:* 8,666 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address:

Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: September 14, 1990.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 90–22389 Filed 9–20–90; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2606-N-90]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: September 21, 1990.

ADDRESSES: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300, TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD:

(1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or

(2) A statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: HQ-DA, Attn: DAEN-ZCI-P—Robert Conte; room 1E671 Pentagon, Washington, DC 20360-2600; (202) 693-4583; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501-0067; Veterans Administration: Linda Tribby, 084A, Real Property Program Management, Veterans Administration, 810 Vermont Ave. NW., Washington, DC 20420; (202) 233-5026. (These are not toll-free numbers.)

Dated: September 13, 1990.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

Suitable Land (by State)

Texas

Parcel 1
Part of Tracts C-268 and C-273
Whitney Lake
(See County), TX, Co: Hill
Location: East side of lake before Katy Bridge on FMI713
Landholding Agency: GSA
Property Number: 549030010
Status: Excess
Comment: 4.70 acres; potential utilities; subject to oil and gas lease; most recent use—low density recreation.
GSA No. 7-D-TX-505L

Parcel 2
Part of Tracts C-273 and C-282-A
Whitney Lake
(See County), TX, Co: Hill
Location: East side of lake before Katy Bridge on FM1713
Landholding Agency: GSA
Property Number: 549030011
Status: Excess
Comment: 7.93 acres; potential utilities; subject to oil and gas lease; most recent use—low density recreation.
GSA No. 7-D-TX-505L

Parcel 3
Part of Tracts C-227-B, C-272, C-273 & C-282A
Whitney Lake
(See County), TX, Co: Hill
Location: East side of lake before Katy Bridge on FM 1713
Landholding Agency: GSA
Property Number: 549030012
Status: Excess
Comment: 58.73 acres; potential utilities; subject to oil and gas lease; most recent use—low density recreation.
GSA No. 7-D-TX-505L

Parcel 4
Part of Tract C-274-2
Whitney Lake
(See County), TX, Co: Hill
Location: East side of lake before Katy Bridge on FM 1713
Landholding Agency: GSA
Property Number: 549030013
Status: Excess
Comment: .95 acre; potential utilities; most recent use—low density recreation.
GSA No. 7-D-TX-505L

SUITABLE BUILDINGS (by State)

California

Bldg. 920
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda
Landholding Agency: Army
Property Number: 219030289
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 921
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda
Landholding Agency: Army
Property Number: 219030290
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 922
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda
Landholding Agency: Army
Property Number: 219030291
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 939
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda
Landholding Agency: Army
Property Number: 219030292
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 940
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda
Landholding Agency: Army
Property Number: 219030293
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Bldg. 941
Parks Reserve Forces
Training Area
Dublin, CA, Co: Alameda
Landholding Agency: Army
Property Number: 219030294
Status: Unutilized
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

Georgia

Bldg. 5403
Fort Benning
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219030268
Status: Unutilized
Comment: 7850 sq. ft.; 1 story; needs major rehab; most recent use—exchange branch.

Massachusetts

Bldg. T–209
Fort Devens
Fort Devens, MA
Landholding Agency: Army
Property Number: 219030265
Status: Underutilized
Comment: 4070 sq. ft.; 2 story wood frame; needs rehab; most recent use—barracks.

Mississippi

Federal Building—Post Office
Fourth Avenue & Court Street
Bay Springs, MS, Co: Jasper
Landholding Agency: GSA
Property Number: 549030009
Status: Excess
Comment: 3888 of 7777 sq. ft. underutilized; 2 floor brick frame; portion under lease to Postal Service.
GSA NO. 4–G–MS–524

New York

Bldg. 5
V.A. Medical Center
Redfield Parkway
Batavia, NY, Co: Genesee
Landholding Agency: VA
Property Number: 979030001
Status: Underutilized
Comment: Portion of 16800 sq. ft.; 3 stories; brick and masonry building; needs minor repairs.

Virginia

Bldg. 2809
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030271
Status: Underutilized
Comment: 3500 sq. ft.; selected periods are reserved for military/training exercises; most recent use—recreation building.

Bldg. 2849
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030272
Status: Underutilized
Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises; most recent use—dining facility.

Bldg. 2212
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030279
Status: Underutilized
Comment: 2256 sq. ft.; selected periods are reserved for military/training exercises; most recent use—headquarters building.

Bldg. 2417
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030280
Status: Underutilized
Comment: 2256 sq. ft.; selected periods are reserved for military/training exercises; most recent use—headquarters building.

Bldg. 1693
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030281
Status: Underutilized
Comment: 6912 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1694
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030282
Status: Underutilized
Comment: 6912 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1695
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030283
Status: Underutilized
Comment: 6912 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T–3029
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030284
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 3030
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030285
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T–3037
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030286
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T–3038
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030287
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. T–3039
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030288
Status: Underutilized
Comment: 4292 sq. ft.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldg. 1356
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030295
Status: Underutilized

Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1360
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030296
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1361
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030297
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1362
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030298
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1668
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030299
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1669
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030300
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1670
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030301
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1671
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030302
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1672
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030303
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1673
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030304
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1674
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030305
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1675
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030306
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1678
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030307
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1679
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030308
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1680
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030309
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1681
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030310
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1682
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030311
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1683
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030312
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1684
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030313
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. 1685
Fort Pickett
Blackstone, VA, Co: Nottoway
Landholding Agency: Army
Property Number: 219030314
Status: Underutilized
Comment: 11000 sq. ft.; selected periods are reserved for military/training exercises; most recent use—mess hall.

Bldg. T–12054
U.S. Army Logistics Center and Fort Lee
Logistics Circle
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030328
Status: Unutilized
Comment: 4095 sq. ft.; 1 story sheet metal; needs rehab; presence of asbestos; off-site use only.

Bldg. T–8504
U.S. Army Logistics Center and Fort Lee
23th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030329
Status: Unutilized
Comment: 2250 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T–8132
U.S. Army Logistics Center and Fort Lee
Corps Road
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030330
Status: Unutilized
Comment: 1915 sq. ft.; 1 story wood frame; needs rehab; off-site use only.

Bldg. T–6016
U.S. Army Logistics Center and Fort Lee
Shop Road
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030331
Status: Unutilized
Comment: 10520 sq. ft.; 2 story wood frame; needs rehab; off-site use only.

Bldg. T–2016
U.S. Army Logistics Center and Fort Lee
7th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030332
Status: Unutilized
Comment: 4720 sq. ft.; 2 story vinyl siding/wood; needs rehab; off-site use only.

Bldg. T–2017
U.S. Army Logistics Center and Fort Lee

7th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030333
Status: Unutilized
Comment: 4720 sq. ft.; 2 story vinyl siding/ wood; needs rehab; off-site use only.

Bldg. T-2018
U.S. Army Logistics Center and Fort Lee
7th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030334
Status: Unutilized
Comment: 4720 sq. ft.; 2 story vinyl siding/ wood; needs rehab; off-site use only.

Bldg. T-2019
U.S. Army Logistics Center and Fort Lee
7th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030335
Status: Unutilized
Comment: 4720 sq. ft.; 2 story vinyl siding; needs rehab; off-site use only.

Bldg. T-2020
U.S. Army Logistics Center and Fort Lee
7th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030336
Status: Unutilized
Comment: 4720 sq. ft.; 2 story vinyl siding; needs rehab; off-site use only.

Bldg. T-1418
U.S. Army Logistics Center and Fort Lee
"A" Avenue
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030367
Status: Unutilized
Comment: 3100 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T-1515
U.S. Army Logistics Center and Fort Lee
"A" Avenue
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030368
Status: Unutilized
Comment: 2850 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T-2011
U.S. Army Logistics Center and Fort Lee
"'A" Avenue and 6th Street
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030369
Status: Unutilized
Comment: 2850 sq. ft.; 1 story wood frame; needs rehab; off-site use only.

Bldg. T-2012
U.S. Army Logistics Center and Fort Lee
"A" Avenue
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030370
Status: Unutilized
Comment: 2850 sq. ft.; 1 story wood frame; needs rehab; off-site use only.

Bldg. T-2021
U.S. Army Logistics Center and Fort Lee
"B" Avenue
Fort Lee, VA
Landholding Agency: Army
Property Number: 219030371
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; off-site use only.

Universe of Properties:

Total=114
Suitable=60
Suitable Building=56
Suitable Land=4
Unsuitable=54
Unsuitable Buildings=52
Unsuitable Land=2
Number of Resubmissions=0

[FR Doc. 90-22259 Filed 9-20-90; 8:45 am]
BILLING CODE 4210-29-M

Office of the Secretary

[Docket No. D-90-931; FR-2910-D-01]

Delegation of Concurrent Authority to the Deputy Assistant Secretary for Finance and Management, Office of Administration

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of concurrent delegation of authority.

SUMMARY: The Secretary of Housing and Urban Development is delegating to the Deputy Assistant Secretary for Finance and Management, Office of Administration, all authority vested in the position of Assistant Secretary for Administration.

EFFECTIVE DATE: September 13, 1990.

FOR FURTHER INFORMATION CONTACT: Charles M. Farbstein, Assistant General Counsel for Administrative Law, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., room 10254, Washington, DC 20410. Telephone (202) 708-3138 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Secretary of Housing and Urban Development recently established within the Department a new position of Deputy Assistant Secretary for Finance and Management, within the Office of Administration, to assist in the overall direction and management of the Office of Administration and to have concurrent authority, with the Assistant Secretary for Administration, for all Office of Administration programs and functions of the Department. This notice delegates authority to the Deputy Assistant Secretary for Finance and Management to concurrently exercise the authority of the Assistant Secretary for Administration and revokes the previous concurrent delegation of authority to the Deputy Assistant Secretary for Administration, issued in 1974.

Accordingly, the Secretary delegates as follows:

Section A. Authority delegated. The Deputy Assistant Secretary for Finance and Management, Office of Administration, is hereby delegated, concurrently with the Assistant Secretary for Administration, all authority currently delegated to the Assistant Secretary for Administration.

Section B. Delegation Revoked. The following delegation of authority is revoked:

1. 39 FR 38273 (October 30, 1974) [Docket No. D-74-292]

Any redelegations issued, or action taken, under any delegation revoked herein shall remain in effect until expressly modified or revoked.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: September 13, 1990.

Jack Kemp,
Secretary of Housing and Urban Development.

[FR Doc. 90-22367 Filed 9-20-90; 8:45 am]
BILLING CODE 4210-32-M

Office of Administration

[Docket No. N-90-3151]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as

described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 10, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Management Reviews of Multifamily Projects.
Office: Housing.
Description of the need for the information and its proposed use: Form HUD–9834 will be used when conducting on-site reviews of project operations to evaluate the quality of project management, determine the causes of project problems, devise corrective actions to safeguard the Department's financial interest, and ensure decent, safe, and sanitary housing for tenants.
Form number: HUD–9834.
Respondents: Businesses or other for-profit and non-profit institutions.
Frequency of Submission: Other.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Management Review Questionnaire	1,120		1		3		3,360
Report	1,120		1		1		1,120

Total estimated burden hours: 4,480.
Status: Revision.
Contact: J.K Weldon, HUD, (202) 708–3944, Scott Jacobs, OMB, (202) 395–6880.

Date: September 10, 1990.

Proposal: Flexible Subsidy-Capital Improvement Loan Program, FR–2824.
Office: Housing.
Description of the need for the information and its proposed use: These forms will be used to facilitate the analyses necessary to determine eligible projects' problems and dollar needs. They will also assure the best use of funds, track completion of tasks, and flow of funds.
Form number: HUD–9823A, 9823B, 9824A, 9835, 9835A, 9835B.
Respondents: State or Local Governments, businesses or other for-profit, non-profit institutions, and small businesses or organizations.
Frequency of submission: Monthly, Quarterly, and Annually.
Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	×	Burden hours
Forms:							
HUD–9823A	40		12		1		480
HUD–9823B	40		4		2		320
HUD–9824A	40		4		20		3,200
HUD–9835	40		1		4		160
	57		1		2		114
	3		1		4		12
HUD–9835A	40		1		4		160
	3		1		4		12
HUD–9835B	40		1		1		40
	60		1		1		60

Total estimated burden hours: 4,558.
Status: Extension.
Contact: William J. Schick, HUD, (202) 708–2654, Scott Jacobs, OMB, (202) 395–6880.

Dated: September 10, 1990.

[FR Doc. 90–22364 Filed 9–20–90; 8:45am]
BILLING CODE 4210–01–M

[Docket No. N–90–3150]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained form Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as

described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what numbers of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 12, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Rental Rehabilitation Program (RRP)—Rent Verification Survey.

Office: Community Planning and Development.

Description of the need for the information and its proposed use: Investor owners participating in the RRP will be requested to supply information on rents charged on units rehabilitated with RRP funds. The results of the annual survey will be provided to Congress in the Department's annual report on the program.

Form number: None.

Respondents: Individuals or households and non-profit institutions.

Frequency of submission: Annually.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Rent Verification Survey	1,100		1		.25		275

Total estimated burden hours: 275.

Status: Extension

Contact: Frances Bush, HUD, (202) 708–1296; Scott Jacobs, OMB, (202) 395–6880.

Date: *September 12, 1990.*

Proposal: Mortgagee's Application for Partial Settlement (Multifamily Mortgage).

Office: Housing.

Description of the need for the information and its proposed use: The data compiled on this form is information needed to process a partial claim settlement.

Form number: HUD–2537.

Respondents: Businesses or other for-profit.

Frequency of submission: On occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–2537	600		1		⅙		100

Total estimated burden hours: 100.
Status: Extension.
Contact: Marie Elam, HUD, (202) 708–3423; Scott Jacobs, OMB, (202) 395–6880.

Date: *September 12, 1990.*

Proposal: Mortgagor's Certificate of Actual Cost.
Office: Housing.

Description of the need for the information and its proposed use: The mortgagor submits this report certifying actual development cost so the Department can make a determination of mortgage insurance acceptability and prevent windfall profits. It is used also to provide a base for evaluating housing programs, labor costs, and physical improvements in connection with construction of multifamily housing.
Form number: HUD–92330.
Respondents: Businesses or other for-profit and non-profit institutions.
Frequency of submission: On occasion.
Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92330	350		2		8		5,600

Total estimated burden hours: 5,600.
Status: Extension.
Contact: Richard S. Fitzgerald, HUD, (202) 708–0283; Scott Jacobs, OMB, (202) 395–6880.

Date: *September 12, 1990.*

[FR Doc. 90–22365 Filed 9–20–90; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement, related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget,

Paperwork Reduction Project 1076–0112, Washington, DC 20503 at (202) 395–7340.

Title: 25 CFR 13.11 Content of reassumption petition.

Abstract: Federally recognized Indian tribes in Public Law 83–608 states may, under the Indian Child Welfare Act, reassume jurisdiction of Indian child custody proceedings. This information enables the Secretary to determine whether reassumption is feasible.

Bureau form number: None.

Frequency: As needed until approved.

Description of respondents: Federally recognized Indian tribes.

Annual responses: 2.

Annual burden hours: 160.

Bureau clearance officer: Gail Sheridan (202) 208–2685.

Dated: September 6, 1990.

Betty B. Tippeconnic

Acting Chief Division of Social Sciences.

[FR Doc. 90–22386 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–02–M

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement, related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Paperwork Reduction Project (1076–0111), Washington, DC 20503 (202) 395–7340.

Title: 25 CFR 23.13—Payment for appointed counsel in state Indian child custody proceedings.

Abstract: A state court that appoints counsel for an indigent party in an Indian child custody proceeding for which appointment of counsel is not authorized by state law shall send written notice to the Bureau. The Area Director using this information can certify if the client in the notice is eligible to have his counsel compensated by the Bureau in accordance with the Indian Child Welfare Act.

Bureau form number: None.

Frequency: Upon request for assistance.

Description of respondents: State courts.

Annual response: 4.

Annual burden hours: 60.

Bureau clearance officer: Gail Sheridan (202) 208–2685.

Dated: August 29, 1990.

David L. Hickman,

Chief, Division of Social Services.

[FR Doc. 90–22837 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–02–M

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed has been submitted to the Office of Management and Budget for approval under the provision of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement, related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget Interior Desk Officer, Paperwork Reduction Project (1076–0110), Washington, DC 20503 at (202) 395–7340.

Title: 25 CFR 21.6—Financial Statement.

Bureau form number: 1076–0110.

Abstract: Any state or agency which has contracted with the Bureau shall, thirty days after the close of each fiscal year, provide the Assistant Secretary for Indian Affairs an analysis of financial expenditures made pursuant to that contract.

Frequency: Annually, or thirty days after the close of each fiscal year.

Description of respondents: States or other agencies that contract with the Bureau.

Annual response: 2.

Annual burden hours: 10.

Bureau clearance officer: Gail Sheridan, (202) 208–2685.

Dated: August 27, 1990.

David L. Hickman,

Chief, Division of Social Services.

[FR Doc. 90–22388 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Closure of Public Lands; California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Emergency closure of use on public lands, Lassen County, California.

SUMMARY: Notice is hereby given that use of selected public lands east of the Sierra Army Depot, Lassen County, California, is closed to the public until further notice. Access to these lands is limited to authorized personnel from the Departments of the Interior and Defense on official business, or other persons specifically authorized access by the above referenced Departments. This closure is necessary to protect the public from injury due to unexploded ordinance which may be present on these lands. Additionally, the Skedaddle and Spencer Basin Roads may be temporarily closed for short periods, during the demolition of ordinance at the adjacent Sierra Army Depot Demolition Pit.

DATES: This closure goes into effect on September 16, 1990 and shall remain in effect until revoked or modified by the Authorized Officer.

FOR FURTHER INFORMATION CONTACT: Dick Stark, Area Manager, Eagle Lake Resource Area, 2545 Riverside Drive, Susanville, California, 96130. Telephone: (916) 257–0456.

SUPPLEMENTARY INFORMATION: The authority for this closure is 43 CFR 8364.1. Any person who fails to comply with this order is subject to arrest and fine of up to $1,000, and/or imprisonment not to exceed 12 months. This closure applies to all members of the public except authorized personnel from the Departments of the Interior and Defense or others authorized by the above referenced Departments.

This order affects public lands within the following area:

Mount Diablo Meridian, California

T. 28 N., R. 17 E.

Portions of sections 3, 10, 11, 14, and 15, west of Skedaddle Road and south of Spencer Basin Road.

Robert J. Sherve,

Associate District Manager.

[FR Doc. 90–22352 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–84–M

[CO–050–4410–02]

Canon City District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 that the Canon City District Advisory Council (DAC) meeting will be held Wednesday, October 17, 1990, 12:00 p.m. to 5 p.m. and Thursday, October 18, 1990, 8 a.m. to 5 p.m., at the Bureau of Land Management, Canon City District Office, 3170 East Main Street in Canon

City, Colorado. The meeting agenda will include:

1. A field trip of potential ACEC's in the Royal Gorge Resource Area.
2. Update on the San Luis Resource Management Plan/Environmental Impact Statement.
3. Workshop to help formulate alternatives for the Royal Gorge RMP/EIS.
4. Public presentations to the council (open invitation).

The meeting is open to the public. Persons interested may make oral presentations to the council at 8 a.m. on October 18 or they may file written statements for the council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak. The public is also invited on the field trip, however they may need to provide their own transportation.

ADDRESSES: Anyone wish to make an oral or written presentation to the council should notify the District Manager, Bureau of Land Management, P.O. Box 2200, 3170 East Main, Canon City, Colorado 81215–2200 by October 16, 1990.

FOR FURTHER INFORMATION CONTACT: Kin Smith (719) 275–0631.

SUPPLEMENTARY INFORMATION: Summary of minutes of the meeting will be available for public inspection and reproduction during regular working hours at the District Office approximately 30 days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 90–22382 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–JB–M

[NV–040–00–4320–10]

Ely-District; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Ely District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Ely Grazing Advisory Board.

DATES: The meeting will be held on Wednesday, October 17, 1990, at 10 a.m. at the Ely District Office, Bureau of Land Management Conference Room, 702 North Industrial Way, Ely, Nevada.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92–463. The meeting is open to the public; public comments will be accepted from 10:30 to 11 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 702 North Industrial Way, HC 33, Box 150, Ely, Nevada 89301–9408 by October 15, 1990. The main agenda items will be the status of projects programmed for construction or feasibility and survey and design studies next fiscal year.

Minutes of the meeting will be available for public inspection and reproduction during regular office hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Timothy Reuwsaat, (702) 289–4865.

Dated: September 14, 1990.

Kenneth G. Walker,

District Manager.

[FR Doc. 90–22342 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–HC–M

[NV–040–00–4130–02]

Ely District; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Ely district advisory council meeting.

SUMMARY: Notice is hereby given that the District Advisory Council for the Ely District, Nevada, will meet on October 24, 1990. The meeting will be held in the District Conference Room, 702 North Industrial Way, Ely, Nevada, beginning at 7 a.m.

The agenda is as follows:

1. Introductions.
2. Election to fill vacant Chairperson.
3. General Business.
4. Briefing on tour.
5. Public comments.
6. Tour of Bald Mountain Mine.

The meeting is open to the public, and members of the public may make statements before the Council. Persons wishing to make a statement to the Council should contact Tim Reuwsaat at the Ely District Office at 702–289–4865 no later than October 22, 1990. The tour of the Bald Mountain Mine is also open to the public; however, members of the public must provide their own transportation and lunch.

ADDRESS: Comments and suggestions should be sent to: Bureau of Land Management, HC33, Box 150, Ely, Nevada 89301–9408.

FOR FURTHER INFORMATION CONTACT: Timothy Reuwsaat, (702) 289–4865.

Dated: September 14, 1990.

Kenneth G. Walker,

District Manager.

[FR Doc. 90–22343 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–HC–M]

DEPARTMENT OF THE INTERIOR

National Park Service

DEPARTMENT OF AGRICULTURE

Forest Service

Lands Transferred from the Gifford Pinchot and Snoqualmie National Forests to Mount Rainier National Park

AGENCIES: National Park Service, Interior, Forest Service, USDA.

ACTION: Notice; transfer of lands.

SUMMARY: Pursuant to section 302 of Public Law 100–668 the boundaries were adjusted and lands were made part of the Gifford Pinchot National Forest, Snoqualmie National Forest, and Mount Rainier National Park.

DATES: This transfer became effective November 16, 1988.

FOR FURTHER INFORMATION CONTACT: Katherine Weyer, Land Law Examiner, Forest Service, USDA, P.O. Box 3623, Portland, Oregon 97208–3623, (503) 326–2921.

SUPPLEMENTARY INFORMATION: In compliance with section 302 of the Act of November 16, 1988, Public Law 100–668, notice is hereby given that the following lands have been transferred from the Gifford Pinchot and Snoqualmie National Forests to the Mount Rainier National Park and further describes those additional lands transferred from the Mount Rainier National Park to the Snoqualmie National Forest.

Lands transferred from the Gifford Pinchot National Forest to Mount Rainier National Park are described as a tract of land lying on Backbone Ridge in secs. 7, 8, and 18, T. 14 N., R. 10 E., Willamette Meridian, Lewis County, Washington. It is particularly described as follows: beginning at the intersection of the Tatoosh Wilderness boundary with the south boundary of Mount Rainer National Park, said intersection located in the W½ of sec. 7, T. 14 N., R. 10 E; thence, southeasterly along the Tatoosh Wilderness boundary to angle point number 62 of said wilderness boundary, said angle point located in the NE¼ of sec. 18, T. 14 N., R. 10 E.; thence, north to a point lying 200 feet southeasterly from and perpendicular to the centerline of Stevens Canyon Highway, said point located in the NE¼ of sec. 18; thence northeasterly along a line lying 200 feet southeasterly from and parallel with the centerline of Stevens Canyon Highway to the intersection with the south boundary of Mount Rainier National Park, said intersection located in the W½ of sec. 8. T. 14 N., R. 10 E.; and thence westerly

along the south boundary of Mount Rainier National Park to the point of beginning. Containing about 210 acres of land, more or less.

Lands transferred from the Snoqualmie National Forest to the Mount Rainier National Park are described as a tract of land lying on Klapatche Ridge in sec. 28, T. 16 N., R. 7 E., Willamette Meridan, Pierce County, Washington. It is more particularly described as follows: the E½NE¼NE¼ and the NE¼SE¼NE¼ of sec. 28. Containing 30 acres of land, more or less.

Lands transferred from Mount Rainier National Park to the Snoqualmie National Forest are described as, Parcel 1, a tract of land lying on Crystal Mountain in T. 17 N., R. 10 E., Willamette Meridian, Pierce County, Washington. It is more particularly described as follows: referencing angle points number 126A and 127A of the Bureau of Land Management Boundary Survey in T. 17 N., R. 10 E., Willamette Meridian, (approved January 20, 1978) for the east boundary of Mount Rainier National Park; beginning at said BLM angle point 126A said point being on the ridge top centerline; thence N 06° 21' 51" E (record N 06° 42' E) 675.65 feet (record 667.92 feet) to said BLM angle point 127A also being on said ridge top centerline; and thence southerly along said ridge top centerline to BLM angle point 126A. Containing 0.82 of an acre of land, more or less.

Parcel 2 is a tract of land lying on Crystal Mountain in T. 17 N., R. 10 E., Willamette Meridian, Pierce County, Washington. It is more particularly described as follows: referencing angle points number 127A, 128A, and 129A of the Bureau of Land Management Boundary Survey in T. 17 N., R. 10 E., Willamette Meridian, (approved January 20, 1978) for the east boundary of Mount Rainier National Park; commencing at said BLM angle point 127A; thence N 31° 25' E along the line towards said BLM angle point 128A a distance of 507.88 feet to a point on the centerline of the ridge top and the true point of beginning of the parcel herein described; thence continuing N 31° 25' E 1119.20 feet; thence N 01° 28'22" E 72.95 feet; thence N 14° 27'41" W 361.52 feet; thence N 08° 24'19" W 277.06 feet; thence N 05° 40'54" E 475.38 feet; thence N 08° 36'01" E 1350.06 feet; thence N 10° 47'33" E 628.35 feet; thence N 88° 12'02" E 30.00 feet to the centerline of said ridge top; and thence southerly along the centerline of said ridge top through BLM angle points 129A and 128A to the point of beginning. Containing 22.63 acres of land, more or less.

Parcel 3 is a tract of land lying on Crystal Mountain in T. 17 N., R. 10 E., Willamette Meridian, Pierce County, Washington. It is more particularly described as follows: referencing angle points number 129A and 130A of the Bureau of Land Management Boundary Survey in T. 17 N., R. 10 E., Willamette Meridian, (approved January 20, 1978) for the east boundary of Mount Rainier National Park; commencing at said BLM angle point 130A; thence S 03° 58'14" W (Record S 03° 56' W) along the line towards said BLM angle point 129A a distance of 1064.16 feet; thence N 86° 01' 46" W perpendicular to said line 243.06 feet to the centerline of the ridge top and the true point of beginning of the parcel herein described; thence S 88° 12'02" W 30.00 feet; and thence N 06° 40'46" W 1749.98 feet to a point on the centerline of said ridge top; thence southerly along the centerline of said ridge top through said BLM angle point 130A to the true point of beginning. Containing 8.05 acres of land, more or less.

Crystal Mountain Parcels 1, 2, and 3 aggregate 31. 50 acres of land, more or less

Dated: September 11, 1990.

William J. Briggle,

Acting Regional Director, Pacific Northwest Region, National Park Service.

Dated: September 14, 1990.

John E. Lowe,

Acting Regional Forester, Pacific Northwest Region, USDA Forest Service.

[FR Doc. 90-22397 Filed 9-20-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF THE INTERIOR

National Park Service

Entrance Fees, Grand Canyon National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of fee increase.

SUMMARY: Notice is hereby given that entrance fees at Grand Canyon National Park will increase on October 1, 1990. New fee amounts for a single visit will be $10.00 per vehicle, for entry by a private, non-commercial motor vehicle, or $4.00 per person for entry by other means.

DATES: This action will be effective October 1, 1990.

SUPPLEMENTARY INFORMATION: Public Law 100-203, enacted December 22, 1987, amended the Land and Water Conservation Fund Act of 1964 to authorize an increase in entrance fees for three national parks. This law provides that a maximum fee of $10.00 per private, non-commercial vehicle may be charged at Grand Canyon National Park beginning October 1, 1990. The same entrance fee was authorized for Yellowstone and Grand Teton National Parks, for immediate implementation.

The National Park Service will begin charging entrance fees at the authorized rate on October 1, 1990. A single visit permit, valid for unlimited entries during a seven day period, will increase from the present $5.00 to $10.00. This permit will be valid for all persons entering in a private, non-commercial vehicle, such as a car, truck, motorcycle, motor home, or private van. For persons entering by other means, such as bus, train, bicycle, or on foot, a single visit permit will increase from the present $2.00 to $4.00 per person, as authorized by the 1987 legislation.

There will be no change in the amount charged for an annual pass to Grand Canyon National Park, which now costs $15.00 and allows unlimited visits to the park during the calendar year in which it is purchased. Also available is the Golden Eagle Passport, which is valid for the calendar year at a rate of $25.00 and provides unlimited entries to all areas of the National Park System and National Wildlife Refuges at which entrance fees are charged. The Golden Age Passport, free to U.S. citizens who are 62 and older, and the Golden Access Passport, free to disabled U.S. citizens, will continue to provide free entrance at Grand Canyon National Park.

Dated: September 13, 1990

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 90-22393 Filed 9-20-90; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Koch Industries, Inc., 4111 E. 37th Street, North, P.O. Box 2256, Wichita, Kansas 67201-2256.

2. Wholly-owned subsidiaries which will participate in the operations and State or place of incorporation:

Name of Entity	Place of Incorporation
835011 Ontario, Inc.	Ontario.
845337 Ontario, Inc.	Ontario.

Name of Entity	Place of Incorporation
ABCOR International, Inc	Massachusetts.
ABKO XXXV, Inc	Delaware.
Bow Pipe Line Company	Oklahoma.
Bow River Pipe Lines Ltd	Alberta.
Chaparral Pipeline (NGL) Co	Delaware.
Chase Pipe Line Company	Kansas.
Chemical Petroleum Exchange, Inc.	Illinois.
Crown Sterling Company	Delaware.
Fincastle Mining, Inc	West Virginia.
Gulf Central Pipeline Company	Delaware.
Gulf Central Storage & Terminal Co.	Nebraska.
KCBX Terminals Company	North Dakota.
Koch Carbon, Inc	Delaware.
Koch Engineering Company, Inc.	Kansas.
Koch Engineering Company, Ltd.	Ontario.
Koch Exploration Canada, Ltd	Delaware.
Koch Exploration Company	Kansas.
Koch Exploration International, Inc.	Delaware.
Koch Fuels, Inc	Delaware.
Koch Gathering Systems, Inc	Kansas.
Koch Guatemala, Inc	Kansas.
Koch Materials Ltd	Alberta.
Koch Membrane Systems, Inc	Massachusetts.
Koch Nitrogen Company	Nebraska.
Koch Oil Co. Ltd	Alberta.
Koch Pipelines, Inc. (Delaware Corp.).	Delaware.
Koch Pipelines, Inc. (Wisconsin Corp.).	Wisconsin.
Koch Pipelines, Ltd	Alberta.
Koch Process Systems, Inc	Delaware.
Koch Realty, Inc	Kansas.
Koch Refining Company	Delaware.
Koch Service, Inc	Kansas.
Koch Shipping, Inc	Delaware.
Koch Sulfur Products Company	Kansas.
Koch Underground Storage Company.	Kansas.
Kogas, Inc	Oklahoma.
Matador Cattle Company (The)	Delaware.
Matador Coal Company	Virginia.
Medserve of Florida, Inc	Delaware.
Mid-Saskatchewan Pipe Lines, Ltd.	Saskatchewan.
Moco, Inc.	Kansas.
North American Interstate Pipeline Co.	Kansas.
Northern Pipe Line Company	Canada.
Quivira Gas Company	Kansas.
Reiss Coal Company (The C.) (1888).	Wisconsin.
Reiss Lime Company of Canada, Limited.	Ontario.
Reiss Marine Transport, Inc	Delaware.
Southwest Pipe Line Company	Delaware.
Zink-Hojel, S.A. DE C.V	Mexico.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-22436 Filed 9-20-90; 8:45 am]

BILLING CODE 7035-01-M

Senior Executive Service Performance Review Board; Membership Change

September 17, 1990.

The following changes have been made to the SES Performance Review Board. Jane F. Mackall is no longer a member. David M. Konschnik has been changed from alternate member to member, and Sidney L. Strickland, has been added as an alternate member. This designation is effective September 5, 1990.

Dated: September 13, 1990.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-22425 Filed 9-20-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Mine Safety and Health Administration

Radiation Sampling and Exposure Records.

1219-0003.

Weekly; annually.

Underground uranium mine operators and metal and nonmetal mine operators where radon daughter concentrations exceed 0.3 WL 35 respondents; 7.75 hours per response; 13,563 total burden hours.

Requires operators of uranium mines and metal and nonmetal mines, where concentrations of radon daughters exceeds 0.3 WL, to calculate, record, and report to MSHA individual miner's exposures to concentrations of radon daughters. Records are maintained by the mine operator and are submitted to MSHA annually.

Pension and Welfare Benefits Administration

ERISA Advisory Opinion Procedure 76-1.

1210-0066.

On Occasion.

Business or other for-profit; small businesses or organizations.

142 responses, 2,130 hours, 15 hours per response.

The procedure is used by plan fiduciaries, administrators and other individuals when requesting a legal interpretation from the Department regarding specific facts and circumstances (an Advisory Opinion).

Employment Standards Administration

Carrier's or Self-Insurers Report on Rehabilitation to Deputy Commissioner.

1215-0051; LS-222.

On occasion.

Business or other for-profit.

46 respondents; 121 total hours; 15 min. per response; 1 form.

Notifies OWCP of disabled workers who may need vocational rehabilitation services. Serves as an early referral mechanism to assure that disabled workers receive rehabilitation before their disabilities become fixed, and they develop unwholesome attitudes that are difficult to change. Submitted by insurance carriers and self-insured.

Signed at Washington, DC this 18th day of September, 1990.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 90-22445 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-23-M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Renewal

The Secretary of Labor and the United States Trade Represenative have taken steps to renew the Labor Advisory Committee for Trade Negotiations and Trade Policy. The Committee and subcommittees will be chartered pursuant to section 135(c) (1-2) of the Trade Act of 1974 (19 U.S.C. 2155(c) (1-2), as amended by section 1103 of the Trade Agreements Act of 1979, Public Law No. 96-39, 93 Stat. 308, the Omnibus Trade and Competitiveness Act of 1988 Public Law 100-418, 102 Stat. 1107 (1988) and Executive Order No. 11846, March 27, 1975 (19 U.S.C. 2111 nt). The charter of the Committee will be filed 15 days from the date of this notice.

The Labor Advisory Committee for Trade Negotiations and Trade Policy consults with, and makes recommendations to the Secretary of Labor and to the United States Trade Representative on issues of general policy matters concerning labor and trade negotiations, operations of any trade agreement once entered into, and other matters arising in connection with the administration of the trade policy of the United States.

The Committee will meet at irregular intervals at the call of the Secretary of Labor and the United States Trade Representative. The frequency of committee meetings will be approximately two or three times per year, depending upon the needs of the Secretary of Labor and the United States Trade Representative. The Steering Subcommittee will meet monthly. Other subcommittees may meet on an ad hoc basis.

Representatives from the private sector wishing further information or to be considered for appointment to serve on the committee should contact: Mr. Fernand Lavallee, Director, Trade Advisory Group, Bureau of International Labor Affairs, Frances Perkins Building, Department of Labor, room S2235, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 523-2752.

Signed at Washington, DC, this 17th day of September 1990.

Elizabeth Dole,

Secretary of Labor.

[FR Doc. 90-22446 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 1, 1990.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 10th day of September 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/Workers/Firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Agnew Lumber Co. (Company)	Centralia, WA	9/10/90	8/28/90	TA-W-24,811	Veneer.
American Trim Products (Workers)	Boston, VA	9/10/90	8/28/90	TA-W-24,812	Buttons and closures.
Apache Corp. (Workers)	Denver, CO	9/10/90	8/30/90	TA-W-24,813	Gas and oil.
Associated Spring (UAW)	Corry, PA	9/10/90	8/30/90	TA-W-24,814	Springs, wire products.
B&W Shake, Inc. (Workers)	Forks, WA	9/10/90	8/29/90	TA-W-24,815	Shakes and shingles.
Carlingswitch, Inc. (Workers)	Brownsville TX	9/10/90	8/31/90	TA-W-24,816	Electronic switches.
Chemical Leaman Tank Lines, Inc. (Workers)	Nazareth, PA	9/10/90	8/29/90	TA-W-24,817	Bulk cement.
Donenfeld Knitwear (Workers)	New York, NY	9/10/90	8/26/90	TA-W-24,818	Men's & womens knitwear.
First Wisconsin Computer Center (Workers)	Clintonville, WI	9/10/90	8/27/90	TA-W-24,819	Bank services.
Foster Grant Corp. (RWDSU)	Leominster, MA	9/10/90	8/30/90	TA-W-24,820	Reading glasses and sunglasses.
Foster Grant Corp. (RWDSU)	Tucson, AZ	9/10/90	8/30/90	TA-W-24,821	Reading glasses and sunglasses.
G&G Drilling Collar Service (Company)	Abilene, TX	9/10/90	8/27/90	TA-W-24,822	Oilfield machinery repairs.
Gates Rubber Co. (URW)	Denver, CO	9/10/90	8/23/90	TA-W-24,823	Automotice drive belts.
General Circuits, Inc. (Workers)	Rochester, NY	9/10/90	9/1/90	TA-W-24,824	Printed circuit boards.
George Harris Oil Co. (Workers)	Abilene, TX	9/10/90	9/10/90	TA-W-24,825	Oil and gas.
General Motors Corp. (UAW/CO)	Lakewood, GA	9/10/90	8/25/90	TA-W-24,826	Passenger automobiles.

Howe Richardson, Inc. (Workers)	Clifton, NJ	9/10/90	8/24/90	TA-W-24,827	Industrial weighing scales.
Lakeview Building (Company)	Beaver, WA	9/10/90	8/29/90	TA-W-24,828	Cedar Shakes and shingles.
Litton Systems Encoder (Company)	Chatsworth, CA	9/10/90	8/31/90	TA-W-24,829	Encoders.
Lori Charles Sportswear (Company)	Luzerne, PA	9/10/90	8/31/90	TA-W-24,830	Ladies dresses.
Musebeck Shoe Co. (Company)	Cedar Grove, WI	9/10/90	8/27/90	TA-W-24,831	Womens shoes.
Musebeck Shoe Co. (Company)	Oconomowoc, WI	9/10/90	8/27/90	TA-W-24,832	Womens shoes.
New Brunswick Scientific Co., Inc (Workers)	Edison, NJ	9/10/90	8/21/90	TA-W-24,833	Scientific laboratory equipment.
Prime Technology E.I.&S Div. (Workers)	Stoneham, MA	9/10/90	8/16/90	TA-W-24,834	Electronic components.
Raycord Co. (Workers)	Spartanburg, SC	9/10/90	8/28/90	TA-W-24,835	Mens and womens shirts.
Raymond Merchandise (UAW)	Corry, PA	9/10/90	8/30/90	TA-W-24,836	Springs, wire products.
Reynolds Metals Co. San Patricio Reduction Plt (Workers).	Corpus Christi, TX	9/10/90	8/28/90	TA-W-24,837	Aluminum ingots.
Rich-Sea Pak (Workers)	Brownsille, TX	9/10/90	8/31/90	TA-W-24,838	Frozen shrimp.
Samuel Schulman Furs Inc. (FLM-FJC)	New York NY	9/10/90	8/28/90	TA-W-24,839	Mink coats and jackets.
Spartan Engineered Products, Inc. (Workers)	White Cloud, MI	9/10/90	8/20/90	TA-W-24,840	Automotive transmission shifters.
Taylor Drilling, Inc. (Company)	Chehalis, WA	9/10/90	8/27/90	TA-W-24,841	Oil and gas drilling.
Tektronix, Inc., Technology Div.	Beaverton, OR	9/10/90	8/30/90	TA-W-24,842	Integrated circuits.
TLC Sportswear, Inc. (Workers)	Tullahoma, TN	9/10/90	8/31/90	TA-W-24,843	Jackets, shorts & pants for men and womens.
Tubafor Mill (Workers)	Morton, WA	9/10/90	8/24/90	TA-W-24,844	Cedar boards for fencing.
We Cut It Cedar (Company)	Aberdeen, WA	9/10/90	8/27/90	TA-W-24,845	Western red cedar ridge.

[FR Doc. 90-22447 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,501]

Future Cedar Products, Inc. Amanda Park, WA; Negative Determination Regarding Application for Reconsideration

By an application postmarked August 28, 1990, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on August 8, 1990 and published in the Federal Register on August 21, 1990 (55 FR 34093).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company claims that the Department's survey was inadequate. It's alleged that the survey could not have shown that imports increased because Future Cedar's products were sold to distributors with the products of its only customers. Investigation findings show that Future Cedar is a contractor. The workers produce cedar shakes and shingles exclusively for a single firm.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department's survey of Future Cedar's sole customer shows no imported shakes or shingles during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 10th day of September 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-22448 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,417]

Grove Textiles, Inc., Dunmore, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Grove Textiles, Incorporated, Dunmore, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-24,417; Grove Textiles, Incorporated, Dunmore, Pennsylvania (September 10, 1990).

Signed at Washington, DC this 13th day of September 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-22449 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-20,952]

ISC Systems Corp., a/k/a/ ISC-Bunker Ramo, Spokane, WA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 4, 1988 applicable to all workers of ISC Systems Corporation, Spokane, Washington. The notice was published in the Federal Register on December 9, 1988 (53 FR 49800).

New information from the company indicates a name change during the coverage period. The findings show that ISC-Bunker Ramo, Spokane, Washington is a successor-in-interest firm to ISC Systems Corporation, Spokane, Washington. After May 1989 ISC Systems Corporation became known as ISC-Bunker Ramo. This name change was due to the purchase of ISC Systems Corporation by Olivetti Group who changed the company name to ISC-Bunker Ramo. ISC-Bunker Ramo manufactures the same products, has the same workers and is in the same location as the former company, ISC Systems Corporation. The notice, therefore is amended to properly reflect the correct worker groups.

The amended notice applicable to TA-W-20,952 is hereby issued as follows:

All workers of ISC Systems Corporation; and ISC-Bunker Ramo, all of Spokane, Washington who became totally or partially separated from employment on or after August 26, 1987 are eligible to apply for adjustment assistance benefits under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of September 1990.

Stephen A. Wandner,

Deputy Director, Officer of Legislation and Actuarial Services, UIS.

[FR Doc. 90-22450 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,584]

Panhandle Royalty Co., Oklahoma City, OK; Negative Determination Regarding Application for Reconsideration

By an application dated September 6, 1990, a company official requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on August 27, 1990 and published in the **Federal Register** on September 7, 1990 (55 FR 36914).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company official states that Panhandle does not manage oil or gas wells but owns an interest in oil and gas wells and as such produces articles—crude oil and natural gas.

Investigation findings show that the Panhandle workers do not produce an article within the meaning of the Trade Act of 1974. Owning an interest in oil and gas wells is not the same as producing an article or for that matter exploring or drilling.

The Department has consistently determined that the performance of services (investing in oil and gas wells) does not constitute production of an article, as required by section 222 of the Trade Act of 1974; and this determination has been upheld in the U.S. Court of Appeals.

Workers providing a service may be certified but only under very limited conditions. The conditions are that their separations must be caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership or a firm related by control. In any event, the reduction in demand for services must originate at a domestic production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions have not been met for workers of Panhandle Royalty.

Further information shows the layoff of one staff geologist who did on-site exploration. Investigation findings shows that on-site exploration at Panhandle constituted an insignificant portion of company revenues. Lastly, company revenues increased in fiscal year 1990 when worker separations occurred.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or mistinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 13th day of September 1990.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 90-22451 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-90-134-C]

West Elk Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

West Elk Coal Company, Inc., P.O. Box 591, Somerset, Colorado 81434, has filed a petition to modify the application of 30 CFR 75.300-4(a)(b) (inspection, examinations, and records) to its Mt. Gunnison No. 1 Mine (I.D. No. 05-03672) located in Gunnison County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all main fans be inspected daily, by a person trained and designated by the operator, to ensure electrical and mechanical reliability.

2. As an alternate method, petitioner proposes to install a monitoring and automatic telephoning system which will monitor four conditions of the fan and automatically telephone designated individuals when any one of the conditions deteriorates.

3. Petitioners states that the proposed alternate method will provide greater protection to the miners than is provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 22, 1990. Copies of the petition are available for inspection at that address.

Dated: September 13, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-22452 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 90-63; Exemption Application No. D-8279 et al.]

Grant of Individual Exemptions; E. William Meyer, Inc. Pension Trust, et al

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification

to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interest of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

E. William Meyer, Inc. Pension Trust (the Plan) Located in Stateline, NV

[Prohibited Transaction Exemption 90-63; Exemption Application No. D-8279]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of certain unimproved real property (the Property) to Landis Hoffman, a disqualified person with respect to the Plan, for the greater of: (a) The fair market value of such Property as of the date of the sale; or (b) the original acquisition price for the Property and all holding costs incurred by the Plan during its ownership of the Property plus reasonable interest computed from the initial acquisition date until the time escrow is closed.[1]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 1, 1990 at 55 FR 31252.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[1] Because Mr. E. William Meyer is the sole participant in the Plan, there is no jurisdiction under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

Holiday Oil Employee Profit Sharing Plan (the Plan) Located in Salt Lake City, UT

[Prohibited Transaction Exemption 90-64; Exemption Application No. D-8365]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale by the Plan of certain real property located in West Jordan, Utah (the Property) to Jerald Wagstaff, the trustee of the Plan; provided that the price paid for the Property is no less than the greater of $125,000 or the Property's fair market value as of the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 1, 1990 at 55 FR 31255.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Wiethop Truck Sales, Inc. Employees Retirement Plan and Trust et al. Located in Cape Girardeau, MO

[Prohibited Transaction Exemption 90-65; Exemption Application Nos. D-8312, D-8313 and D-8314]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale by the Plans of a building (the Building) to Wiethop Truck Sales, Inc., a party in interest with respect to the Plans, for $145,000 in cash, provided such amount is not less than the fair market value of the Building on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 1, 1990 at 55 FR 31254.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Gibson Distributing Co., Inc.—Permian Basin Employee Profit Sharing Plan (the Plan) Located in Lubbock, TX

[Prohibited Transaction Exemption 90-66; Exemption Application No. D-8334]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the cash sale by the Plan of certain improved real property located in El Paso, Texas (the Property) to Furr's Inc., the successor in interest to the original sponsor of the Plan; provided that the purchase price is the greater of $325,000 or the fair market value of the Property as of the date of such sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 1, 1990 at 55 FR 31256.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is subject to the exemption.

Signed at Washington, DC, this 18th day of September 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90-22457 Filed 9-20-90; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-7999, et al.]

Proposed Exemptions; Equitable Life Assurance Society of the United States (Equitable), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state the reasons for the writer's interest in pending exemption.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5671, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Equitable Life Assurance Society of the United States (Equitable) Located in New York, NY

[Application No. D-7999]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective January 1, 1986, to the transfer of certain interests (the Interests) in four parcels of real property (the Properties) from Equitable's General Account to its Separate Account No. 143 (the Separate Account), a single customer separate account established pursuant to a group annuity contract with the International Business Machines (IBM) Retirement and Part-Time Employees Retirement Plans (the Plans), provided that the transactions were on terms and conditions at least as favorable to the Plans as those between unrelated parties.

Preamble

On October 3, 1988, the Department published an individual exemption, Prohibited Transaction Exemption 88-92 (PTE 88-92, 53 FR 38798), which exempts certain transactions which may occur as a result of the sharing of real estate investments among various accounts maintained by Equitable, including Equitable's General Account, and accounts maintained by Equitable in which employee benefit plans participate, provided that specified conditions are met. In the application for PTE 88-92, Equitable did not request exemptive relief for the types of transactions for which relief is now being proposed. In addition Equitable represents that any separate transactions which have arisen or may arise in conjunction with the transfers of the Interests in the Properties and which are described in PTE 88-92 have met or will meet all the applicable conditions of that exemption. No further exemption for such transactions is being proposed herein.

In addition, the Department notes that any violations of section 406(a), 406(b)(1) or 406(b)(2) which may have occurred solely due to the initial sharing of investments that resulted from the transfers of the Interests from the General Account to the Separate Account will be subsumed within the proposed exemption for the transfer of the Interests, if granted.

Summary of Facts and Representations

1. Equitable is a mutual life insurance company organized under the laws of the State of New York and subject to supervision and examination by the Superintendent of Insurance of the State of New York. It is the third largest life insurance company in the United States. Among the wide variety of insurance products and services it offers, Equitable provides funding, asset management and other services for several thousand employee benefit plans subject to the provisions of Title I of the Act.

Equitable maintains several pooled separate accounts in which pension, profit-sharing, and thrift plans participate. Equitable also manages all or a portion of the assets of a number of large plans, including the Plans, through several single customer separate accounts and investment management accounts. Equitable's real estate investment management subsidiary,

Equitable Real Estate Investment Management (EREIM), provides real estate investment advisory services to Equitable and property management services with respect to some properties owned by Equitable accounts. EREIM became operational in August 1984.

Equitable has substantial experience in managing real estate investments. Of the more than $58 billion in total assets held by Equitable at year-end 1988, Equitable's General Account held $11.7 billion in real estate mortgage loans and $4.5 billion in equity investments in real property and interests in real estate joint ventures. Additionally, more than $5.4 billion of real property investments were held in Equitable's real estate pooled separate accounts. As of December 31, 1988, the Separate Account held assets of 418.5 million.

In addition to the Separate Account which is the subject of this exemption application, Equitable also maintains three other single customer real estate separate accounts on behalf of the Plans, Separate Account Nos. 136, 141, and 149. As of December 31, 1988, the total net assets of Separate Account No. 141, which invests in retail shopping centers, were $457.3 million. Separate Account No. 136, which invests in industrial research and development properties, held $213.0 million of net assets as of December 31, 1988. As of December 31, 1988, Separate Account No. 149, which invests in commercial office buildings, held assets of $76.4 million.

2. IBM and its subsidiaries and affiliates are the largest manufacturers of data processing equipment machines and systems in the world. As of December 31, 1988, the company had total assets of $73 billion.

The Plans consist of two plans, the IBM Retirement Plan and the IBM Part-time Employees Retirement Plan. The total assets of the Plans were approximately $19.5 billion as of December 31, 1988. The Plans had approximately 285,900 participants as of that date. The named fiduciary of the Plans is the IBM Retirement Plans Committee (the IBM Committee). The IBM Committee consists of five directors of IBM, a majority of whom are outside directors. As named fiduciary of the Plans, the IBM Committee has, pursuant to the terms of the Plans, delegated to the Treasury of IBM, Jon W. Rotenstreich, authority to authorize the proposed transfer of investments to the Separate Account.

3. In early 1985, pension investment officers of IBM asked Equitable and other prominent real estate investment managers to develop a proposal for a format under which the Plans would make a significant investment in a professionally managed office building portfolio.

In connection with this request, IBM established and provided to Equitable general investment guidelines and policies regarding the establishment of an office building investment portfolio for the Plans. Equitable initially identified several property investments within Equitable's general account real estate portfolio that appeared to meet the guidelines and objectives established by IBM. After considerable discussion between Equitable and IBM and further review of various property investments owned by Equitable, it was determined that eight property investments within Equitable's general account portfolio might be suitable for the new IBM office building portfolio.

As a part of this process, IBM retained Goldman Sachs & Co. (Goldman) in 1985 to serve as independent Investment Acquisition Advisor to negotiate the terms of the transfer of the Properties and to provide recommendations with respect to the creation of the office building portfolio.

4. Goldman is one of the largest investment banking and brokerage firms in the world. The firm is organized as a New York limited partnership. Goldman is registered as an investment adviser under the Investment Advisers Act of 1940.

Goldman provides a wide variety of financial services to employee benefit plans, including investment management and consulting, securities brokerage, and performance measurement services. The firm had more than $200 million of assets under management as of December 31, 1984.

Goldman is not affiliated in any way with Equitable or IBM. However, Goldman serves as a broker and dealer in securities for Equitable accounts. Goldman also provides investment banking services, real estate brokerage and other services to Equitable. In 1984, the year preceding Goldman's activities as the Acquisition Advisor, less than one percent of Goldman's gross revenue was derived from Equitable.

Goldman was given complete and exclusive authority to review, evaluate and negotiate the terms of the transfer of the four investments proposed for the Separate Account, although IBM, through its Treasurer acting for the IBM Committee, retained final approval authority with respect to the transfer of the investments. Goldman also advised IBM as to whether EREIM should continue to be property manager with respect to two of the Properties. Except with respect to the decision to retain EREIM as property manager for these properties, all investment management decisions regarding the assets of the Separate Account since the transfer have been made by Equitable.

5. Goldman made a preliminary review of the eight properties and determined that each of the eight properties might be suitable for investment by the Plans. After further review, IBM pension officers and in-house real estate investment professionals decided to pursue with Equitable the transfer of four of the Equitable property investments to the Separate Account to be established on behalf of the Plans.

IBM agreed to the Equitable proposal for the formation of the Separate Account for the Plans and agreed to the transfer of the Interests to the Separate Account subject to further negotiations between Goldman and Equitable and final approval by IBM. In addition, IBM reserved the option to request the followup transfer of the remaining portion of Equitable's ownership interest in the Properties to the Separate Account at a later time.

6. The applicant represents that the IBM Committee retained Goldman as independent Investment Acquisition Advisor to negotiate the terms of the transfer of the properties to the Separate Account from the General Account and to advise the Committee with respect to these transfers. In connection with its services as Investment Acquisition Advisor, IBM provided to Goldman an Investment Policy Statement which governed Goldman's actions with respect to the transfer of investments to the Separate Account. Within the scope of these policies and guidelines, Goldman was vested with total authority to negotiate the terms and conditions of the transfer of the equity interests in the Properties to the Separate Account and to determine the appropriateness of the investments for the Separate Account.

In advising the IBM Committee, acting through the IBM Treasurer, with respect to the transfer of investments, Goldman reviewed background and operating information regarding each of the Properties, title to the Properties, evidence of compliance with zoning, environmental, occupancy and other applicable ordinances or requirements, real estate taxes and assessments and other liens and encumbrances. Goldman also made on-site inspections of the Properties to determine whether any physical defects exist that would warrant exclusion of a Property from the Separate Account or whether any defects would affect the value of a Property.

Goldman also reviewed information with respect to the financial condition of each joint venture partnership which owns a Property. Goldman reviewed audited income and expense histories of each of the Properties, all existing or proposed maintenance and management contracts, current leasing plans, and budgets for the current year. Goldman also reviewed the rent roll for each Property containing the following information as to each tenant: name, location, number of square feet of leasable area demised to the tenant, base rental per month, applicable percentage rent and operating escalations, commencement and expiration dates, renewal options, options on additional space, rights of first refusal and purchase rights, the forms of existing reciprocal easement and operating agreements among respective owners and major tenants of each building, and the standard form of lease employed by other tenants in the building.

Goldman also performed a market analysis of the Properties, which took into account (1) Information on the Standard Metropolitan Statistical Area (SMSA), (2) relevant population data including historical and projected growth, and the direction of growth and income, (3) the amount of comparable space built, under construction and proposed for construction in the relevant geographic areas, (4) the properties most competitive with the subject Property, (5) a projection of the rental rates that may be achieved in the market and (6) relevant sales, if any, of comparable properties in the market.

Goldman also prepared a financial analysis of each of the Properties based on financial information furnished to Goldman by Equitable. This information included income and expense data (including capital items) for the current fiscal year and the three most recent fiscal years and operating expenses of the Property, energy consumption and efficiency, staffing, existing financing, real estate taxes and risk of reassessment and current service contracts. As part of its financial and economic analysis, Goldman prepared financial projections for each of the Properties.

On the basis of its review and analysis of the above information as well as its on-site inspections of each of the Properties, Goldman determined whether the transfer price or valuation of the Interests in each of the Properties to be transferred was fair and reasonable and whether the transfer of the investments was appropriate in light of the Investment Policy Statement. In this regard, Goldman was solely responsible on behalf of the Plans for negotiating the financial and other terms and conditions of the transfer of each of the Interests in the Properties to the Separate Account. Equitable was not responsible in any way for the negotiation of the transfer of the Interests in the Properties on behalf of the Plans. Based on Goldman's advice and recommendations, the Treasurer of IBM, acting under authority delegated to him by the IBM Committee, determined whether to approve the transfer of investments to the Separate Account.

Goldman also reviewed all existing property management arrangements, including the arrangements involving EREIM in two of the Properties, as part of its overall responsibilities. Goldman advised IBM whether EREIM is managing these properties in conformance with customary standards of commercial real estate managers and whether the management fee and other terms of the management agreement are representative of such agreements in the markets in which the Properties are located. On the basis of Goldman's analysis and advice, IBM determined to retain EREIM as property manager for the Properties for which it currently acts as property manager.

7. In order to eliminate any potential for abuse with respect to transactions involving the sharing of these investments, Equitable has established the same framework of safeguards and conditions for the Separate Account that are set forth in PTE 88–92. A major element of these safeguards is the appointment of an independent fiduciary committee which has the responsibility and authority to approve or reject recommendations made by equitable relating to a shared investment in which the Account has an interest.

In connection with the establishment of the Separate Account, Equitable appointed three officers of Landauer Associates, Inc. (Landauer) to serve as the independent fiduciary committee (the Committee) on behalf of the Separate Account. Landauer is a New York corporation engaged, directly and through its affiliates, in the business of commercial real estate consulting, asset management, appraisal and related activities. Landauer's principal offices are located in New York. It also has offices in Atlanta, Chicago, Houston, West Palm Beach, Los Angeles, and Santa Ana, California. The company is the oldest real estate counseling firm in the United States. Neither Equitable nor its subsidiaries or affiliates have any ownership interest in Landauer. Neither does Landauer or any of its principals have any ownership interest in Equitable or any of its subsidiaries or affiliates. In 1983, total fees and commissions paid by Equitable to Landauer for appraisal services constituted 1.3 percent of Landauer's total revenues. In 1984, total fees and commissions paid by Equitable constituted 0.9 percent of Landauer's total revenues.

Equitable initially appointed the members of the Committee. However, IBM reviewed written materials which describe the Committee's members and the Committee's functions and responsibilities as independent fiduciary on behalf of the Separate Account. The appointment of the Committee was ratified and approved by IBM.

8. Effective July 1, 1988, IBM, based on its annual reviews of the Committee's performance, replaced the Committee members with three officers of the Jackson-Cross Company (Jackson-Cross).

Jackson-Cross is an expert real estate advisory firm with its principal office located in Philadelphia, Pennsylvania. It also has offices in Wilmington, Delaware, and Princeton, New Jersey. It has been involved in the commercial real estate business since 1876. The company has substantial experience in commercial real estate matters, including consulting, real estate brokerage, property management, property appraising and the review and approval of construction budgets. The company currently manages approximately 10 million square feet of diverse industrial and commercial properties and office building space.

Jackson-Cross receives less than 5 percent of its total yearly fees from Equitable and Equitable separate accounts. In addition, neither Equitable nor its subsidiaries or affiliates have any ownership interest in Jackson-Cross. Similarly, neither Jackson-Cross nor any of its principals have any ownership interest in Equitable or any of its subsidiaries or affiliates. Although Jackson-Cross does from time to time provide leasing services in buildings owned in part by Equitable, and has occasionally provided appraisal services to Equitable, Jackson-Cross provides no property management services to Equitable at this time. Rather, Jackson-Cross' primary contact with Equitable is through the provision of independent fiduciary services.

IBM has the sole authority to determine annually whether to continue to retain Jackson-Cross' officers as the independent fiduciary Committee for the Separate Account. Equitable and its

affiliates have no authority to remove any Committee member. However, any Committee member may be removed for cause by the other Committee members. In order for a Committee member to be removed for cause, there must be sufficient and reasonable grounds for removal which are related to the person's fitness to perform the required duties. If a vacancy on the Committee should occur for any reason, a replacement will be appointed by a majority vote of the remaining members of the Committee. Replacement members may be suggested by anyone, including the Committee members or Equitable. The applicant represents that the Committee members will meet the terms and conditions relating to the qualification requirements for an independent fiduciary under PTE 88–92.

9. The principal role of the Committee is to approve or reject recommendations made by Equitable regarding the allocation of shared investments to the Separate Account (future investments will not include any property interests to be transferred from the General Account) and the categories of transactions involving shared investments described in PTE 88–92. The Committee also has sole discretionary authority over the continued retention of EREIM as property manager for the two Properties for which EREIM currently serves as property manager. All such decisions must be based on whether the proposed action is in the best interests of the Plans participating in the Account. The Committee will maintain written minutes of its meetings and other written records in which all decisions made on behalf of the Separate Account and the rationale for those decisions will be set forth.

In addition, the Committee is required to review at least twice annually the shared investments in the Account's shared investment portfolio to determine what action, if any, should be taken with respect to such investments, including their disposition.

As noted above, the function of the Committee will be to approve or reject recommendations made by Equitable with respect to proposed transactions involving shared investments. To the extent such transactions involve possible prohibited transactions under the Act, the applicant represents that they will be exempt from section 406 of the Act under PTE 88–92. In addition, the Committee will be required to approve any allocation of a shared investment to the Separate Account other than the Interests.

10. The Properties are located in Washington, DC, San Francisco, Los Angeles, and New York. The Washington, DC, San Francisco, and Los Angeles Properties are owned by joint venture partnerships and the New York Property is owned as a common tenancy.[1] The Washington, DC Property is International Square, a 12 story building, subject to a ground lease due to expire in 2073. Equitable holds a 50% interest in the joint venture which owns the building, while the other 50% is owned by an entity which is majority-owned by a Washington, DC real estate developer. The developer also owns the company which provides building management services for the building. Equitable and Goldman negotiated a value for the building of $206.5 million, subject to $77 million in four mortgage loans as of September 1, 1986, resulting in an equity value of $129.5 milliion. Equitable's 50% equity interest was accordingly valued at $64.75 million, and the 90% Interest of Equitable's interest was transferred to the Separate Account for $58.3 million.

11. The San Franciso property is One Market Plaza, a three structure complex consisting of an enclosed six-story glass roofed gallery and pedestrian mall and two office buildings, subject to a ground lease due to expire in 2075. EREIM is the property manager for this Property. Equitable held a 90% interest in the joint venture which owns the Property with a local real estate company the owner of the remaining 10%. Equitable and Goldman negotiated a value for the Property of $290.5 million, subject to two mortgage loans with a total balance of $61.6 million as of September 1, 1986, resulting in an equity value of $228.9 million. Equitable's 90% interest therefore, was valued at $206 million, and the 90% Interest of Equitable's 90% interest transfered to the Separate Account was valued at $185.4 million. Thus, the Separate Account had an 81% ownership in the joint venture and the General Account 9%.

On September 30, 1987, Equitable's co-joint venturer in One Market Plaza made an offer to sell the land underlying the buildings and its 10% interest in the joint venture to Equitable. Equitable and Landauer both agreed that the purchase of the co-venturer's interests was desirable. Equitable negotiated a price of $27.7 million for the 10% interest in the joint venture and $7.8 million for the entire interest in the land.[2] Equitable and Landauer agreed that it would be in the Plans' interest for Equitable to transfer its 9% interest in the joint venture to the Separate Account, raising its interest to 90%, and for Equitable to then acquire the co-venturers' 10% interest for the General Account.[3] This

[1] The applicant represents that all of the entities which own the Properties are real estate operating companies (REOC's) within the meaning of the Department's "plan asset" regulation, 29 CFR 2510.3–101(e) and that the Properties are not assets of the Plans for purposes of the prohibited transaction provisions of the Act and the Code. The Department expresses no opinion herein as to whether the Properties constitute "plan assets" or whether the entities are REOC's.

[2] Equitable has not requested exemptive relief for the initial allocation of the shared equity investment in the land underlying the building between the General Account and the Separate Account. Equitable represents that neither the Geneal Account nor the Separate Account incurred any debt in connection with the initial allocation of the shared investment in the land. In this regard, it is the view of the Department that the mere investment of the assets of a plan on identical terms with a fiduciary's investment for his or her own account in the equity interests of a shared real estate investment would not, in itself, cause the fiduciary to have an interest in the transaction that may affect his or her best judgement as a fiduciary. Therefore, such an investment would not, in itself, violate section 406(b)(1) which prohibits a fiduciary from dealing with the assests of a plan in his or her own interest or for his or her account. In addition, such shared investment, pursuant to reasonable procedures established by the fiduciary, would not cause the fiduciary to act on behalf of (or represent) a party whose interests are adverse to those of the plan. Therefore, such an investment would not, in itself, violate section 406(b)(2) which states that a fiduciary may not act in any capacity in a transaction involving the plan on behalf of a party whose interests are adverse to the interests of the plan.

With respect to section 406(a)(1)(D) of the Act, which prohibits the transfer to, or use or for the benefit of, a party in interest (including a fiduciary) of the assets of a plan, it is the opinion of the Department that a party in interest does not violate that section merely because he or she derived some incidental benefit from a transaction involving plan assets. The Department assumes, for this analysis, that the fiduciary does not rely upon, and is not otherwise dependent upon, the participation of the plan in order to undertake its share of the investment.

Thus, with respect to the investment of plan assets in shared equity investments which are made simultaneously with investments by a fiduciary for its own account on identical terms, it is the view of the Department that any benefit that the fiduciary might derive from such investment under these circumstances is incidental and would not violate section 406(a)(1)(D) of the Act.

We further note that the investment needs of a plan may change over a period of time and, in the case of shared investments, the needs and objectives of other investors may become different from one another. At this point conflicts of interest may develop. We express no opinion as to possible prohibited transactions which may occur during the course of the joint ownership in the land.

For a more complete discussion of these issues, see the Notice of Proposed Exemption for Certain Transactions Involving the Equitable Life Assurance Society of the United States, 52 FR 30965, 30973, August 18, 1987.

[3] Equitable Variable Life Insurance Company, a wholly-owned subsidiary of Equitable, acquired a 10% interest in the interest which Equitable acquired from the co-venturer in order to maintain One Market Plaza's status as joint venture.

maintained the pre-existing 90/10 equity ratio in the relative interests in the joint venture between the Separate Account and the General Account. Equitable and Landauer further agreed that the Separate Account would pay no more for the 9% interest than its proportional share of the price negotiated between Equitable and the co-venturer for the 10% interest acquired by the General Account. Landauer agreed to a price of $24,930,000 for the 9% interest in the joint venture and $7,020,000 for a 90% interest in the land.

12. The Los Angeles Property is the First Interstate Bank Building, which consists of a 62-story office building and a 1-story parking structure. The Property is subject to a long term ground lease which will expire in 2033 with an option to renew the lease for 20 years. EREIM is the property manager. Equitable holds a 50% interest in the joint venture which owns the Property. The co-venturer is an affiliate of the major tenant in the building, who is also the owner of the fee interest in the ground. Equitable and Goldman negotiated a gross value for the Property of $180 million subject to a mortgage loan with a balance of $46.5 million as of September 1, 1986, resulting in an equity value of $133.5 million. Equitable's 50% interest was valued at $66.75 million, and the 90% Interest of Equitable's interest transferred to the Separate Account was valued at $60.08 million.

13. The New York Property is the Merrill Lynch Financial Center, also known as the Corning Building, which is a 26-story office building, as well as the underlying land. Equitable is a tenant in common with a university endowment fund. Equitable and the fund each own 50% of the Property. The property manager is William White-Tishman East Management Company. Equitable and Goldman negotiated a value for the Property of $143.5 million. There is no financing upon the Property. Equitable's 50% interest was therefore valued at $71.75 million, and the 90% Interest of Equitable's interest transferred to the Separate Account was valued at $64.6 million.

14. In summary, the applicant represents that the proposed exemption meets the criteria of section 408(a) of the Act because: (a) The terms of the acquisition of the respective Interests were negotiated on behalf of the Separate Account by Goldman, which is wholly independent of Equitable; (b) the Committee has sole authority to take action on behalf of the Separate Account in any transaction in which Equitable has an interest; (c) all the transactions have been negotiated at arm's-length and on terms at least as favorable to the Separate Account as those between unrelated third parties would be; and (d) all subsequent transactions concerning the Properties have met and will meet the applicable terms and conditions of PTE 88-92.

FOR FURTHER INFORMATION CONTACT: Mr. David Lurie of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Valco Instruments, Inc. Profit Sharing Plan Trust (the Plan) Located in Houston, TX

[Application No. D-8095]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the purchase by the Plan of a 50% joint venture interest (the Interest) in the Springfield Partnership (the Springfield Partnership) from Property Redevelopment Corporation II (PRC II), a party in interest with respect to the Plan, for the lesser of $335,000 or the fair market value of the Interest (the Acquisition Cost) in the Springfield Partnership at the time of the purchase; and (2) any future sale of the Plan's Interest in the Springfield Partnership pursuant to an option agreement (the Option Agreement) whereby the Plan at the sole discretion of the independent fiduciary, will be able to sell the Interest to Valco Instruments Inc. (the Employer) or Stanley D. Stearns (Mr. Stearns), the owner of 95% and 100% of the Employer and PRC II, respectively; provided the following conditions are satisfied:

(1) The purchase of the Interest will be a one-time cash transaction and the Plan will pay no expenses with regard to the purchase;

(2) The the total investment of the Plan, including the Acquisition Cost and the aggregate amount of the principal balance of outstanding loans (the Partnership Loans) extended by the Plan to the Springfield Partnership and the outstanding principal amount of loans for which the Plan will provide assurances, will not exceed at any given time 25% of the Plan's total assets;

(3) The fair market value of the Interest will be determined by an independent qualified appraiser at the time of the purchase;

(4) The Employer and Mr. Stearns agree via the Option Agreement to repurchase the Interest from the Plan at the sole discretion of the independent fiduciary at any time that the independent fiduciary determines that the Plan's involvement in the Springfield Partnership is no longer in the Plan's best interest. The sale price will be the greater of the fair market value of the Interest as determined by an independent qualified appraiser at the time of the sale or the total amount invested in or advanced by the Plan to the Springfield Partnership plus an amount equal to the rate of return earned by other Plan investments, from the initial date of the Plan's participation until the date the option is exercised;

(5) The independent fiduciary has represented that the transactions are in the best interest and protective of the Plan; and

(6) The independent fiduciary is independent of other parties involved in the transaction and the fees received by the independent fiduciary for serving in the independent fiduciary capacity combined with any other fees derived from the Employer or related parties will not exceed 1% of his gross annual income for each fiscal year that he continues to serve in the independent fiduciary capacity with respect to the transactions described herein.

Summary of Facts and Representations

1. The Plan, established September 30, 1977, is a profit sharing plan and trust with 123 participants. Mr. Stearns is the trustee of the Plan and as of September 30, 1988, the Plan had $1,589,487 in total assets. The Plan sponsor is the Employer, which is a Texas corporation in the business of manufacturing technological instruments. Mr. Stearns owns 100% of PRC II and 95% of the outstanding stock of the Employer.

2. PRC II contributed certain land (the Property) on December 7, 1989, to the Springfield Partnership in exchange for the acquisition of the Interest. PRC II, the original owner of the Property, proposes to sell the Interest to the Plan for the lesser of $355,000, or the fair market value of the Interest at the time of the transaction. The Property is located in Harris County, Texas and consists of 3.2451 acres of vacant land. The Property was appraised on September 25, 1989, by Ronald D. Charlton, an independent and qualified appraiser with Charlton & Co. Appraisers. Mr. Charlton relied primarily on the market approach and

determined that the fair market value of the Property was $355,000 as of that date.

3. The remaining 50% joint venture interest in the Springfield Partnership is owned by ICM, Inc. (ICM), a Texas corporation, which is an unrelated party with respect to the Plan. The Springfield Partnership will use the Property to build a retirement home (the Building) which will be developed and managed by ICM. The applicant represents that the Springfield Partnership constitutes a real estate operating company within the meaning of ERISA Regulation § 2510.3–101(e). Accordingly, the applicant represents that the assets of the Plan will include the 50% joint venture interest in the Springfield Partnership, but will not include any of the underlying assets of the Springfield Partnership.[4]

4. The Springfield Partnership agreement (the Agreement) specifies that the ICM contribution to the Springfield Partnership will be $10.00 cash, as well as organizational, developmental, management and administrative services. The applicant also represents that the Springfield Partnership will receive additional financing through a non-recourse loan (the Loan) from the Department of Housing and Urban Development (HUD). The Loan has a term of 40 years and provides for an interest rate of 11%. The total amount of the Loan according to the HUD documents submitted by the applicant is $2,634,100. The total estimated development cost of the project (excluding land) is $2,576,849. Due to the non-recourse nature of the Loan, in the event of default of foreclosure, HUD can only repossess the Building without further remedy against the partners of the Springfield Partnership. Furthermore, the applicant represents that HUD financing will provide approximately 90% of the total cost of this project.

5. Pursuant to the Agreement, in addition to the capital used to purchase the Interest, the Plan will provide additional capital as needed for the construction and maintenance of the Building. Any cash so provided by the Plan shall be in the form of loans to the Springfield Partnership. The Agreement also provides that any collateral or loan assurances needed by the Partnership in order to borrow operating funds will be provided by the Plan and this loan availability contribution together with its purchase of the Interest shall be the exclusive contribution of the Plan. The Plan will be paid interest at the prime rate on any such advances until their repayment. The Agreement calls for all distributable cash to be used to repay any advances made to the Springfield Partnership by the Plan prior to any other distributions. However, the applicant represents that at no time will the involvement by the Plan in the Springfield Partnership exceed 25% of the Plan's total assets, taking into account the initial purchase price paid by the Plan for the Interest and the outstanding principal balance of any and all outstanding Partnership Loans made by the Plan to the Springfield Partnership and the outstanding principal amount of loans for which the Plan provides assurances.[5]

6. Mr. Ralph A. Modad (Mr. Modad), an attorney licensed to practice in the states of Michigan and Texas, has agreed to serve as an independent fiduciary on the Plan's behalf regarding the purchase of the Interest and the subsequent investment in the Springfield Partnership. The fees received by Mr. Modad due to the provision of fiduciary services in this transaction together with any other fees derived from the Employer or related parties will not exceed 1% of his gross annual income for each fiscal year that he provides such services. Mr. Modad represents that he is independent with regard to the Employer and the Plan, and that he understands and accepts the duties and responsibilities of an ERISA fiduciary. Mr. Modad has experience in managing asset portfolios of employee benefit plans of national franchise organizations which have assets in excess of $1,000,000 and which contain various investments in real estate. Accordingly, Mr. Modad represents that he has experience in investing and monitoring pension plan assets.

7. In his capacity as the independent fiduciary, Mr. Modad will be responsible, among other things, for ensuring that the Partnership Loans extended by the Plan to the Springfield Partnership bear an arm's length interest rate and that the total amount invested by the Plan in the Springfield Partnership shall not exceed 25% of the Plan's total assets. Mr. Modad has also examined the Plan's potential cash on cash return on the proposed investment, which he projects to be approximately $86,811 annually. Mr. Modad considered the tax effects of the investment and determined that after taxes, the cash on cash return to the Plan will be approximately 24.8%. Mr. Modad also considered the non-recourse nature of the Loan and accordingly concluded that given the possible rate of return and certain safeguards that will be implemented, the proposed investment is in the best interest of the Plan.

8. Mr. Modad also represents that the Plan is protected from any risk associated with cost overruns in the construction of the Building by the Springfield Partnership due to the use of a lump sum construction contract. Any cost overruns are the responsibility of the contractor and neither the Plan nor the Springfield Partnership have any risk associated with such a contingency. In addition, the contractor is bonded with respect to this project. If the contractor fails to perform and complete the construction of the Building for the stipulated cost, the bonding agent will complete the project at no additional cost to the Plan or the Springfield Partnership.

9. The Option Agreement between the Plan, the Employer and Mr. Stearns will be in effect upon the Plan's purchase of the Interest, whereby the Employer or Mr. Stearns, at the option of the independent fiduciary acting on behalf of the Plan, must purchase the Interest of the Plan in the Springfield Partnership. The Employer and Mr. Stearns have both submitted financial statements in which the applicant represents that they have sufficient resources to buy back the Plan's Interest in the event the Option Agreement is exercised. Specifically, the Option Agreement provides that at any time subsequent to the Plan's acquisition of the Interest, the independent fiduciary, Mr. Modad, has the sole discretion with respect to the decision that the Plan may withdraw from participation in the Springfield Partnership. In the event that the Option Agreement is exercised, the Employer or Mr. Stearns agree to purchase the Plan's Interest for the greater of the fair market value of the Interest as determined by an independent qualified appraiser at the time of the sale or the following consideration:

(1) The total amount invested in or advanced to the Springfield Partnership by the Plan and not repaid to the Trust as of the date of withdrawal from participation, including the amounts representing the initial purchase price of the Interest and the outstanding balance of any and all Partnership Loans made by the Plan; and

(2) The amount representing a rate of return on the Plan's assets determined by the independent fiduciary as follows:

[4] In this proposed exemption, the Department expresses no opinion as to whether the Springfield Partnership is a real estate operating company within the meaning of § 2510.3–101(e).

[5] The Department is providing no opinion as to whether the Plan's investment in the Springfield Partnership will violate any provision of part 4 of title I of the Act.

(a) The average daily rate of return earned by the Plan assets other than the assets invested in or advanced to the Springfield Partnership from the date of inception of participation in this partnership until the date of withdrawal from such participation, multiplied by

(b) The amount of Plan assets invested in or advanced to the Springfield Partnership and not repaid to the Plan as of the date of withdrawal from participation, multiplied by

(c) The number of days from the date the assets of the Plan were invested in or advanced to the Springfield Partnership, until the date of withdrawal from such participation. The Option Agreement also provides that if neither the Employer nor Mr. Stearns purchase the Plan's Interest in the Springfield Partnership for the above-referenced consideration within ten days after receipt of a written notice by the independent fiduciary, the Plan may withdraw from participation in the Springfield Partnership, and in that event, the independent fiduciary shall file a lawsuit on behalf of the Plan for breach of contract and damages against the Employer and Mr. Stearns in a state civil district court in Harris County, Texas. Also, a consent judgement executed at the time of the sale of the Interest will be executed by Mr. Stearns and the Employer with an attached court order directing the sale of the Plan's Interest in the Springfield Partnership as outlined in the Option Agreement. Such consent judgement will be filed with the court at the time of any lawsuit. Accordingly, Mr. Modad has concluded that the Option Agreement will protect the Plan and will minimize the risk of loss to the Plan.

10. The applicant therefore proposes that the Plan be allowed to purchase the Interest from PRC II for the lesser of $355,000, or the fair market value of the Interest at the time of the purchase. The applicant represents that the purchase will be a one-time cash transaction. Furthermore, the applicant represents that the transaction is protective and in the best interest of the Plan as the Plan's total investment in the Springfield Partnership at no time will exceed 25% of the total assets of the Plan. The applicant also states that economic hardship will be sustained by the Plan if the transaction is denied, as the Plan will have to forego an opportunity to increase the return on its investment portfolio.

11. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The purchase price will be the lesser of $355,000, or the fair market value of the Interest in the Springfield Partnership at the time of the purchase;

(b) The purchase of the Interest will be a one-time cash transaction and the Plan will pay no expenses with respect to the purchase;

(c) The fair market value of the Interest will be determined by an independent qualified appraiser at the time of the purchase;

(d) An independent fiduciary has represented that the transactions are in the best interest and protective of the Plan;

(e) The Acquisition Cost of the Interest and the Partnership Loans and the outstanding principal amount of loans for which the Plan will provide assurances, will at no given time exceed 25% of the Plan's total assets;

(f) The Option Agreement will enable the Plan to sell the Interest to the Employer at any time that the independent fiduciary determines that the Plan's involvement in the Springfield Partnership is no longer in the Plan's best interest. The sale price will be the greater of the fair market value of the Interest as determined by an independent qualified appraiser at the time of the sale or the total amount invested in or advanced by the Plan to the Springfield Partnership plus an amount equal to the rate of return earned by other Plan investments, from the initial date of Plan's participation until the date the option is exercised; and

(g) The transaction will enable the Plan to increase the return of its investment portfolio.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 18th day of September 1990.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 90–22458 Filed 9–20–90; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services, Invitation for Comments on the General Operating Support Program (GOS)

AGENCY: Institute of Museum Services, NFAH.

ACTION: Notice of invitation for comments.

SUMMARY: The Institute of Museum Services (IMS) is conducting an evaluation of its General Operating Support program (GOS). We invite comments from museum professionals and other interested persons in response to the questions listed under **SUPPLEMENTARY INFORMATION.**

DATES: Responses are due November 6, 1990.

ADDRESSES: Please send all responses to IMS' contractor at the following address: GOS Comments, Reed Public Policy, suite 600, 1250 Twenty-Fourth Street NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: For information about the GOS program and grants to museums, contact the IMS program staff at (202) 786–0539. For information about this Invitation for Comments, contact Carol Maus at Reed Public Policy (202) 466–0566.

SUPPLEMENTARY INFORMATION: We invite comments responding to any of the following questions. We want to obtain a broad variety of views, suggestions, and positive and negative experiences regarding GOS. Please use specific examples and factual information whenever possible.

It would be helpful if you provide a phone number where we may contact you to ask for clarification or further information. Your comments will be used by IMS and its contractor to help evaluate GOS, and will be available for public inspection.

We welcome your comments on any or all of the questions below, but please show which question you are answering (for example, question 2c).

1. GOS grant money is intended to help meet museums' operating expenses. Sometimes this money allows a museum to undertake a function or project it could not otherwise afford, either because the museum spends its GOS grant on the function or project, or because the GOS grant frees up other funds. We want to know about several particular types of functions or projects that may have been made possible by GOS grant money. We are asking about these particular functions and projects because we need to understand them better, not because they are more important than other uses of GOS funds.

(a) Please describe any examples of how GOS grant money has enabled a museum to provide education that helps solve a problem of general concern to society (for example, illiteracy) unrelated to the museum's own artistic, scientific or cultural field.

(b) Please describe any examples of how GOS grant money has enabled museums to foster research, particularly research using the museum's collections or facilities. Cite publications in scholarly or professional journals, or other products of the research. (By research, we mean activities aimed at advancing the state of the art in some field of knowledge. Please do not include research that is merely a teaching tool, such as school assignments.)

(c) Please describe any examples of how GOS grant money has enabled museums to improve collections and their care. This includes:

- Improving the process for acquiring objects for the collection,
- Identifying and determining the significance of objects in the collection,
- Preserving and conserving objects in the collection, and propagating living collections,
- Other actions to improve collections.

(d) Please describe any examples of how GOS grant money has enabled museums to produce benefits for the public that would seem valuable even to people with no interest in the museum's own artistic, scientific or cultural field. For example:

- Public enjoyment,
- Economic development,
- Support for charitable causes,
- Others.

2. The most obvious benefit to museums from GOS is the grant money. Does GOS produce other benefits to museums? What are specific examples of how these benefits have helped museums, or why are these not real benefits? For example:

(a) Recognizing quality museums in a nationwide competition,

(b) Bringing together practicing museum professionals in a cooperative process that builds consensus on standards of museum operation,

(c) Providing an opportunity for museums to improve their operations through self-evaluation and reviewer comments,

(d) Providing professional development for persons who serve as GOS field reviewers,

(e) Helping the museum to obtain cash or non-cash support from other sources.

3. IMS is reviewing GOS to determine which aspects are working well, and which aspects can be improved. We welcome comments on any of the following aspects. Please explain your reasons and give specific examples where possible, rather than merely saying you support or oppose a certain change.

(a) Why should the GOS application be kept the same, or how and why can it be improved? For example:

- The amount of information required from applicants,
- The clarity and simplicity of the questions and/or instructions,
- The type of questions (i.e., essay-type questions as opposed to short answer or multiple choice questions),
- Whether the applicant is allowed to submit documents it already has, instead of filling out certain parts of the application,
- Whether the applicant is allowed to submit additional documentation that it thinks will strengthen its application,
- Whether IMS allows multiple deadlines, so that a museum that cannot submit its application by the first deadline may be considered later that same year.

(b) Why should the kind of information museums get back from review of their GOS applications be kept the same, or how and why can it be improved? For example:

- The length and number of comments from reviewers,
- Whether there should be standard formats for reviewer comments,
- Whether IMS should tell applicants what scores the reviewers assigned,
- How IMS explains to applicants the process for selecting GOS grantees (field reviewer scoring, GOS panel review, standardization of scores, etc.).

(c) Why should the way GOS recruits, trains and rewards field reviewers be kept the same, or how and why can it be improved? For example:

- The standards for becoming a field reviewer,
- The instruction and training IMS provides to field reviewers,
- The honorarium,
- Other benefits to field reviewers,
- The way field reviewers are managed and evaluated.

(d) Why should the kind of information field reviewers use to evaluate applications be kept the same, or how and why can it be improved? For example:

- Whether reviewers come from the same geographic region as the applicant museum,
- Whether reviewers visit the applicant museum,
- Whether reviewers use personal knowledge of the applicant museum, or rely only on the written application,
- Whether reviewers discuss applications among themselves, or assign scores without discussion.

(e) Why should the standards for evaluating quality of GOS applicants be kept the same, or how and why can they be improved? For example:

- Whether IMS should establish objectively measurable standards of museum quality (such as use of certain security practices or preservation techniques) as a factor in awarding GOS grants,
- Whether accreditation of a museum by certain organizations should be a factor in awarding GOS grants,
- Whether other awards to a museum, or professional activities of its staff, should be a factor in awarding GOS grants,

• Whether the GOS review process should decide which applicants are the very best, and award them grants, or whether is should only decide which applicants are good, and distribute the limited number of grants among all good applicants based on a factor other than quality (random selection, time since last grant, etc.).

(f) Why should the decision-making bodies for awarding GOS grants be kept the same, or how and why can they be improved? For example:

• Whether the GOS panel should have a different role in determining which museums receive grants,

• Whether the field reviewers should have a different role,

• Whether to create regional panels,

• Whether to allow large groups of museum professionals to vote on which applications should receive grants.

(g) Why should the criteria for awarding GOS grants be kept the same, or how and why can they be improved? For example:

• Whether to award grants based on quality,

• Whether to award grants based on need,

• Whether to give priority to particular museum initiatives,

• Whether to give priority to serving particular population groups,

• Whether to distribute grants randomly among all eligible museums,

• Whether to set aside grants for museums of certain sizes, disciplines, or geographic regions.

(h) IMS is committed to providing the maximum support to museums within the limits of the Federal budget. Why should the size, duration and frequency of grants be kept the same, or how and why can they be improved to give museums more benefit from whatever money we can obtain for GOS? For example:

• Whether to keep average grant size the same, make larger grants (but fewer), or make more grants (but smaller),

• Whether to change the relationship between a museum's budget size and the size of its GOS grant (grant is currently 10% of museum's budget, up to $75,000),

• Whether grants should be for one year or multiple years,

• Whether there should be any limit on how frequently a museum can receive a grant (such as three years out of five).

Daphne Wood Murray,

Director, Institute of Museum Services.

[FR Doc. 90-22413 Filed 9-20-90; 8:45 am]

BILLING CODE 7036-01-M

NATIONAL SCIENCE FOUNDATION

Academic Research Facilities Modernization Program Advisory Review Panel Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Review Panel for Academic Research Facilities Modernization Program.

Date and Time: October 11, 1990—8 a.m. to 7 p.m.; October 12, 1990—7:30 a.m. to 4 p.m.

Place: Holiday Inn Crowne Plaza, 300 Army/Navy Drive, Arlington, VA 22202, (703) 892-4100.

Type of Meeting: Closed.

Contact Person: Dr. Henry N. Blount, Senior Program Manager, Research Facilities Office, room 436, National Science Foundation, Washington, DC 20550; 202-357-9785.

Purpose of Meeting: To provide advice on the merit of proposals seeking support for academic research facilities.

Agenda: Review and evaluation of Academic Research Facilities Modernization Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-22353 Filed 9-20-90; 8:45 am]

BILLING CODE 7555-01-M

Biophysics Program Advisory Panel Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for the Biophysics Program.

Date and Time: October 15, 16 & 17, 1990, from 8 a.m. to 6 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., room 1242, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Arthur Kowalsky, Program Director, Biophysics Program, room 325, Phone: (202) 357-7777.

Purpose of Meeting: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for award.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552B (c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-22354 Filed 9-20-90; 8:45 am]

BILLING CODE 7555-01-M

President's Committee on National Medal of Science Meeting

The National Science Foundation announces the following meeting:

Name: President's Committee on the National Medal of Science.

Date: Tuesday, October 9, 1990.

Time: 9 a.m.-5 p.m.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Mrs. Susan E. Fannoney, Staff Assistant, President's Committee on the National Medal of Science, National Science Foundation, Washington, DC 20550 (phone: 202/357-7512).

Purpose of Committee: To provide advice and recommendations to the President in the selection of the National Medal of Science recipients.

Reason for Closing: The nominations being reviewed include information of a personal nature where disclosure would constitute unwarranted invasions of personal privacy. These matters are within exemption 6 of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: The determination made on September 6, 1990 by the Acting Director of the National Science Foundation pursuant to the provision of Section 10(d) of Public Law 92-463.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-22355 Filed 9-20-90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Scientific, Technological, and International Affairs; Meeting

The National Science Foundation announces the following meeting:

Date and Time: October 17—12 a.m. to 6 p.m.; October 18—7:30 a.m. to 3 p.m.

Place: National Science Foundation, room 540, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Marta Cehelsky, Directorate for Scientific, Technological, and International Affairs, National Science Foundation—room 1214, 1800 G Street, NW., Washington, DC 20550, Telephone Number: 202-357-7613.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: Meeting of the Directorate-wide Advisory Committee.

Agenda: (1) *Reports:* Organizational Changes (October 17: 1:00-3:30).

(2) Small Business Innovation and Research (SBIR) (October 17: 3:30–5).
(3) NSF and Industry: Current Activities, Possible Roles (October 17: 8–10).
(4) NSF and Industry, continued: (October 18: 8–10).
(5) International Programs: USSR and Eastern Europe (October 18: 10:15–12:15).
(6) Experimental Program to Stimulate Cooperative Research (EPSCoR) (October 18: 1:15–3:00).

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 90–22356 Filed 9–20–90; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–146]

Environmental Assessment and Finding of No Significant Environmental Impact Regarding Proposed Renewal of Facility License No. R–78; University of Kansas

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility License No. R–78 for the University of Kansas Research Reactor (the licensee) located on the University campus in Lawrence, Kansas.

Environmental Assessment

Identification of Proposed Action

This Environmental Assessment is written in connection with the proposed renewal date of January 1, 1995 for the facility license of the University of Kansas Research Reactor (UKRR) at Lawrence, Kansas, in response to a timely application from the licensee dated December 12, 1989, as supplemented on July 12, 1990. The proposed action would authorize continued possession, but not operation, of the facility.

Need for the Proposed Action

The license for the facility was due to expire on April 7, 1990. The proposed action is required to authorize continued possession, but not operation of the facility, so that the licensee can complete their decommissioning plan, and implement decommissioning of the reactor facility.

Alternatives to the Proposed Action

An alternative to the proposed action that was considered was not renewing the license. This alternative would have led to possession of a facility and radioactive material without authorization by law. This alternative did not provide an acceptable way of decommissioning the facility in a controlled, coordinated manner. The other alternative was to renew the license for a period of one year, but this would require license renewals on an annual basis until decommissioning is completed.

Environmental Impact

The reactor is defueled and all special nuclear material and source material have been shipped offsite or transferred to the state license. The only remaining radioactivity at the facility is activated reactor components. There is no potential for generation of further radioactive materials. The extension of the facility possession-only license for a five year period allows the licensee to complete their decommissioning plan and have a reasonable time to fully implement decommissioning. The time to develop and implement the decommissioning plan should lessen the environmental impact, in that, radioactive materials will continue to be depleted by the decay process and the licensee should have an opportunity to better plan and conduct the decommissioning activities thus further reducing the environmental impact.

Alternative Use of Resources

This action does not involve the use of any resources beyond those normally allocated for such activities.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon foregoing environmental assessment, the Commission has concluded that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for this proposed action.

For further details with respect to this action, see the licensee's request for a license renewal application dated December 12, 1989, as supplemented on July 12, 1990. These documents are available for public inspection at the Commission's Public Document Room, 2110 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 17th day of September 1990.

For the Nuclear Regulatory Commission.
Seymore H. Weiss,
Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.
FR Doc. 90–22463 Filed 9–20–90; 8:45 am]
BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Plant License Renewal; Meeting

The Subcommittee on Plant License Renewal will hold a meeting on October 2, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, October 2, 1990—8:30 a.m. until the conclusion of business

The Subcommittee will review the draft Regulatory Guide on Standard Format and Content for License Renewal Application and the draft Standard Review Plan for the Review of License Renewal applications.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio G. Igne

(telephone 301/492–8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 17, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–22461 Filed 9–20–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittees on Severe Accidents, Extreme External Phenomena and Probabilistic Risk Assessment; Meeting

The Subcommittees on Severe Accidents, Extreme External Phenomena and Probabilistic Risk Assessment will hold a joint meeting on October 3, 1990, Room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, October 3, 1990—8:30 a.m. until the conclusion of business

The Subcommittees will continue their discussion of NUREG–1150, "Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants" in the areas of seismic and fire analysis.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 17, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–22462 Filed 9–20–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

GPU Nuclear Corp. and Jersey Central Power and Light Co. (Oyster Creek Nuclear Generating Station); Exemption

I.

The GPU Nuclear Corporation and Jersey Central Power & Light Company (GPUN/the licensee) are the holders of Provisional Operating License No. DPR–16, which authorizes operation of the Oyster Creek Nuclear Generating Station, (the facility) at steady state reactor core power levels not in excess of 1930 megawatts thermal. The license provides, among other things, that Oyster Creek Nuclear Generating Station is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a boiling water reactor (BWR) located at the licensee's site in Ocean County, New Jersey.

II.

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that the primary reactor containment shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J. More specifically the following sections require that:

Section III.D.2.(a), Type B Test

Type B tests, except tests for air locks, shall be performed during reactor shutdown for refueling or other convenient intervals but in no case at intervals greater than 2 years.

Seciton III.D.3, Type C Tests

Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years.

By letters dated March 2, 1990, and August 29, 1990 GPUN requested a schedular exemption from the above requirements. In its letter GPUN states that the next refueling outage (13R) is presently scheduled for February 15, 1991. However, the 2-year Type B and C test periods end before the next refueling outage on various dates beginning October 1, 1990.

III.

By letters dated March 2, 1990, and August 29, 1990 GPUN requested a one-time only exemption from the regulatory requirements cited in section II above. The licensee has requested an exemption from this requirement in the form of a one-time only extension until the next refueling outage (13R) which is presently scheduled for no later than February 15, 1991. This would extend the interval between tests for 32 penetrations and 43 valves for no more than 4½ months of power operation. Testing of penetrations will be extended from October 7, 1990, or later until the 13R refueling outage and testing of valves will be extended from October 1, 1990, or later until the 13R refueling outage. The basis for the requested exemption is that meeting the 2-year exemption testing interval for Type B and Type C testing implementation would necessitate a reactor shutdown prior to the 13R refueling outage schedule date. This would result in an additional thermal cycle for the plant, as well as the potential environmental impact of a winter shutdown to meet 10 CFR part 50, appendix J testing criteria. Temporary deferment of these tests would allow GPUN to take the plant off-line consistent with system needs for power and the licensee's overall program of power mangement.

The staff has reviewed the licensee's request and finds that the leakage characteristics of the penetrations and valves in question would not be expected to degrade significantly during the period of the requested extension, which is short in comparison with the 2-year test interval specified in 10 CFR part 50, appendix J. Based on this, the requested extension of Type B and Type C testing is acceptable.

IV.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(ii), are present justifying the exemption, namely that the application of the regulation in the particular circumstances is not

necessary to achieve the underlying purpose of the rule. Accordingly, the Commission hereby grants an exemption as described in section III above from the requirements of sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (55 FR 35383).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of September 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-22464 Filed 9-20-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District (the licensee) (the District), for operation of the Rancho Seco Nuclear Generating Station located in Sacramento County, California. The request for amendment was submitted by letter dated April 26, 1990, supplemented June 13, 1990.

The proposed amendment would change the Rancho Seco Physical Security Plan. The proposed amendment would revise paragraph 2.C.(3) to the Rancho Seco license allowing the removal of vital areas and other modifications that would allow the licensee to reduce the size of the Rancho Seco facility's security force.

The licensee based the amendment request on the following: (1) The reactor was permanently shut down on June 7, 1989, (2) the reactor was defueled on December 8, 1989 and all fuel is currently stored in the onsite spent fuel pool, (3) the premise that a radiological release would not result in a whole body dose in excess of 10 CFR part 100, and (4) that an act of sabotage that would result in a dose in excess of these limits is not a credible event.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided an analysis that addressed the above three standards in the amendment application.

The District has reviewed the proposed Security Plan against each of the criterion of 10 CFR 50.92 and concluded that the proposed changes as described in evaluated do not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. There are only two credible accidents in the Defueled Mode, a fuel handling accident and a Loss of Offsite Power (LOOP). The changes proposed do not increase the probability of either of these accidents since the LOOP is not controllable by the plant, and the requirements for testing of the fuel handling bridge remain unchanged. The consequences of these two accident types are bound by the previous analysis for these accidents.

The fuel handling accident scenario remains unchanged, but the consequences of this type of accident are reduced due to the extent of the radioactive decay of the irradiated fuel.

The calculated doses performed by the District, using conservative assumptions from the Updated Safety Analysis Report, Chapter 14, are well within the guidelines of 10 CFR part 100. The doses were calculated for a distance of 100 meters from the release point at the Fuel Storage Building to the nearest location of the fence surrounding the Industrial Area and using a decay time from June 8, 1989, when the reactor was shutdown, until March 28, 1990.

Due to the long decay time and no production mechanism, the inventory of Iodine-131 (half-life of eight days) which is the principal contributor to the thyroid dose, is essentially zero. The calculated whole body dose is 13.1 mrem with Krypton-85 (half-life of 10.7 years) as the principal contributor.

With regard to potential acts of radiological sabotage, the District has determined that there are no credible acts in the long-term defueled condition that could result in a radiological release for which the calculated doses exceed the exposure guidelines of 10 CFR part 100.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes to the Security Plan and amendment to the Operating License apply only when the reactor is in the Defueled Mode. Therefore, only those activities and potential accidents associated with the spent fuel pool (SFP) need be considered. Because the ability to maintain an adequate shutdown margin in the SFP is not affected, no physical changes to the SFP or Spent Fuel Cooling are being made, and systems required to safely store the spent fuel in the Long-Term Defueled Mode will continue to be maintained, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

(3) Involve a significant reduction in a margin of safety since the margin of safety for the Security Plan was never credited as a margin of safety for a LOOP or a dropped fuel assembly. The revised Security Plan does not involve any alteration to any site structures or equipment important to safety, and since potential acts of radiological sabotage are not credible in the Long Term Defueled Condition that could result in a radiological release greater than those values of 10 CFR part 100, the change to the Security Plan will not reduce the margin of safety previously evaluated.

Based on the evaluation provided above the District has concluded that the proposed changes to the Security Plan do not constitute a significant hazard to the public and do not endanger the public's health and safety.

The Commission has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 22, 1990, the licensee may file a request for a hearing with respect

to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95882. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jan Schori, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15870, Sacramento, California 95813, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 26, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95882.

Dated at Rockville, Maryland, this 14th day of September 1990.

For the Nuclear Regulatory Commission.

Peter B. Erickson,

Acting Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 90-22465 Filed 9-20-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Council of Advisors on Science and Technology Notice of Change

The meeting of the President's Council of Advisors on Science and Technology (PCAST) scheduled for September 20 and 21, 1990 as announced in the **Fedreal Register,** September 10, 1990, page 37275, has been changed to a one-day session only on September 21, 1990. The meeting will begin at 9 a.m. in the Roosevelt Room of the White House. The entire meeting will remain closed to the public.

Dated: September 17, 1990.

Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90-22357 Filed 9-20-90; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34-28433; File No. SR-OCC-90-08]

September 14, 1990.

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to On-line Report Retrieval

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), as amended, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 8, 1990, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Term of Substance of the Proposed Rule Change

The purpose of this proposed rule change is to establish a pilot program by which OCC clearing members will access clearing reports via an on-line report inquiry system. In connection with this rule change, OCC also is proposing to add two supplemental agreements for use of this system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of an basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1989, the Commission approved an OCC rule change (SR-OCC-89-05) which mandated the use of OCC's Clearing Management and Control System ("C/MACS") by clearing members. C/MACS provides for on-line input of post-trade and exercise-by-exception transactions by clearing members and, thereby, permits real-time communication between OCC and its clearing members.

The purpose of this proposed rule change is to establish a pilot program for an enhancement to C/MACS which will permit OCC's clearing members to access their clearing reports directly from OCC;s database. This proposed on-line report inquiry system is intended to further improve the efficiency of communications between OCC and its clearing members while decreasing the costs associated therewith.

OCC's prevalent method of distributing reports is to print hard copies and to issue those printed reports to clearing members by depositing them in locked boxes maintained by clearing members. Pursuant to this procedure, OCC delivers all clearing reports regardless of whether all reports are used by a clearing member. Clearing members must send representatives to the locked boxes in order to receive these reports. Analysis and reconciliation of the information contained within the reports is manually performed. Accordingly, OCC believes that certain aspects of the current procedures are costly and inefficient.

As an enhancement to C/MACS, the on-line report inquiry system provides clearing members with the capability to access clearing reports from OCC's database through their existing C/MACS equipment. Because clearing members use essentially the same requirement and the same security safeguards as currently required for on-line entry to OCC via C/MACS, they will not incur significant costs in employing this proposed system.

Ten clearing members agreed to test this enhancement and to provide OCC with their initial comments in 1989, following the Commission's approval of the C/MACS rule change. Based upon the favorable response of those clearing members, OCC has determined to offer the on-line system on a pilot basis to its entire membership.

All clearing members which have expressed interest in this system have been provided with the capability to use it in anticipation of approval of this pilot program. Clearing members, who participate in the on-line system program, will have the choice of continuing to receive hard copy reports of cancelling receipt thereof. OCC will print and issue reports for those clearing members who elect to rely solely on the on-line report system and to cancel their receipt of printed report, OCC will cease printing reports unless such printing is necessary to protect OCC's liens.[1] OCC will benefit from decreased printing and paper costs resulting from those clearing members who cancel their receipt of hard copy reports.

The proposed on-line system will benefit clearing members by improving the timeliness of their receipt of information and their ability to analyze information. OCC believes that these benefits will result in cost savings to clearing members. Instead of waiting for couriers to return the reports collected from their locked boxes, clearing members, upon gaining access to OCC's database, will be able to immediately review clearing reports. Multiple users at a single clearing member will be able to simultaneously access the on-line system.

The proposed on-line system will also facilitate clearing members' analysis and reconciliation of reports. Rather than manually paging through reports, the proposed system would enable clearing members to electronically search and analyze reports. The proposed on-line system facilitates comparisons of trade information by permitting clearing members to access

[1] In order to continue to perfect its issuer's lien under Article 8 of the Uniform Commercial Code, OCC intends to deposit the Daily Activity Position Reports and Initial Transaction Statement, reflecting clearing members' Exchange transactions, in the clearing members' locked boxes.

both "current" and "previous" reports. The "current" function displays reports for the most recent activity/trade date and the "previous" reports. The "current" function displays reports for the most recent activity/trade date and the "previous" function displayes reports from the second most recent activity/trade date. Should a Clearing Member not engage in any activity for a particular business day, most clearing reports will still be made available through the system (the reports will either specifically state that no activity occurred or will not reflect any activity).

Access by clearing members to OCC's database will be available throughout a business day, except during the period when maintenance processing occurs. Maintenance processing occurs at a standard time in the afternoon each business day and involves the reloading of OCC's database by which "current" reports are moved to "previous" reports and the then "previous" reports are deleted. After OCC's database is reloaded, the "current" function will contain reports as they become available. The "current" category will be fully updated upon the completion of nightly processing. Clearing members will be provided with a user's guide for this system which sets forth the time for maintenance processing. In the event of a temporary interruption in the system, OCC can notify clearing members as to the system's availability by way of the C/MACS message function, among other means.

The proposed system thus increases the time frames in which clearing members may access their clearing reports. As such, the proposed on-line system will eliminate inefficiencies and thereby permit clearing members to realize certain savings.

To implement the on-line system on a pilot basis, this proposed rule change amends OCC's By-laws and Rules to permit the use of the report inquiry system by clearing members and to reflect that OCC's obligation to provide reports to clearing members is fulfilled upon making the reports available in OCC's database for those clearing members which elect to no longer receive hard copy reports. As noted, for those clearing members which elect to receive hard copy reports, OCC will continue to provide hard copy reports during the pilot program.

The on-line report inquiry enhancements to C/MACS, coupled with other contemplated enhancements (which would provide clearing members the capability to efficiently print all reports), is designed to lead to the elimination of OCC's role in printing and issuing reports directly to clearing members. OCC believes that permitting the use of the on-line report inquiry system under the pilot program will result in a more efficient and effective system for options processing.

A new term, "on-line data retrieval," is added to the definitional provisions of OCC's Rules. That term is defined to mean the direct access by clearing members via on-line terminals of reports, notices, instructions, data and other items made available by OCC. Rule 208 is amended to permit clearing members to access clearing reports from OCC through the on-line inquiry system and that OCC will make reports available to clearing members rather than directly furnishing such reports.

In addition, the existing provision of the Interpretations and Policies under rule 208 is supplemented by adding two provisions. The first additional provision permits the use of the on-line report inquiry system by clearing members through computer terminals. This same provision also provides that OCC's obligation to furnish, issue or deliver clearing reports to clearing members is fulfilled when those reports are made available by OCC. The second additional provision permits OCC, in its discretion, to extend the time frames by which it can make clearing reports available or to provide clearing reports by other approved means in the event of unusual or unforeseen circumstances.

Based upon the amendments to these Rules, a series of conforming change are made to the By-laws and Rules which relate to the various reports made available to clearing members. The following is a listing of the affected provisions: By-laws: Article VI, Sections 18 and 20; Rules: Chapter IV, Rules 402(d) and 402(e) (daily position and margin reports); Chapter V, Rules 501, 502 and 503 (position and settlement reports); Chapter VI, Rules 605, 613(d), 613(g), 614(i) and 614(j) (Margin reports); Chapter VIII, Rule 706 (cross-margining reports); Chapter VIII, Rules 803, 805(a), 805(c), 805(h), 806(c) and paragraph .01 of interpretations and Policies thereunder (preliminary and final exercise reports); Chapter IX, Rules 901 and 913(b), (delivery and payment); Chapter X, Rule 1002 (clearing fund); Chapter X, Rule 1002 (clearing fund; Chapter XIII, Rules 1303(a), 1303(b), and 1306(b) and 1307(b) exercise, assignment and settlement of GNMA options); Chapter XIV, Rules 1403(a), 1403(b), 1406(b) and Policies thereunder (exercise, assignment and settlement of Treasury securities options); Chapter XV, Rules 1503(a), 1503(b), 1506 and paragraph .01 of Interpretations and Policies thereunder, and 1507(b) (exercise, assignment and settlement of CD options); Chapter XVI, Rules 1602 and paragraph .01 of Interpretations and Policies thereunder, 1605(a)(5), 1605(b)(2) and paragraphs .01 and .02 of Interpretations and Policies thereunder, 1606(a), 1606(b), 1606(c) and 1606A (exercise, assignments and settlement of foreign currency options); Chapter XVII, Rule 1704(b)(3) (settlement of yield-based treasury options); Chapter XVIII, Rules 1803(a)(6) and 1803(b)(3) (exercise, assignment and settlement of index options; and Chapter XX, Rules 20001(b)(2) and 20001(b)(3) (exercise, assignment and settlement of market baskets).

The proposed rule change also adds two new agreements for OCC services. The first agreement is to provide the on-line report inquiry system to clearing members while the second is to provide for managing clearing members use of the system under a facilities management arrangement.

* * * * *

The proposed rule change is in accordance with section 17A of the Act in that it creates the opportunity for more efficient and effective procedures for clearance and settlement.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants and Others

OCC did not solicit nor did it receive any comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of OCC. All submissions should refer to file number SR–OCC–90–08 and should be submitted by October 12, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–22432 Filed 9–20–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28434; File No. SR–OCC–90–09]

Self-Regulatory Organizations; Options Clearing Corporation; Filing of a Proposed Rule Change Relating to Protect Procedure

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), as amended 15 U.S.C. 78s(b)(1), notice is hereby given that on August 23, 1990, the Options Clearing Corporation "(OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to provide a Receiving Clearing Member ("RCM") with protect procedures whereby a RCM who is entitled, as a result of exercising a call option, being assigned an exercise on a short position in a put option or purchasing a Market Basket, to receive securities which are subject to an impending tender or exchange offer or other offer which will expire, may hold the Delivering Clearing Member ("DCM") liable for damages if the DCM fails to deliver the securities by the exercise settlement date and such securities are not thereafter delivered in time for the RCM to take advantage of the offer prior to its expiration or the expiration of the protect period, if any. The proposed rule applies only to deliveries made through corresponding clearing corporations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

Currently, OCC submits the overwhelming majority of stock option exercises to various correspondent clearing corporations ("CCCs") for settlement, subject to their rules and procedures. All the CCCs have rules designed to some degree to protect purchasers in the event that the delivering party fails to deliver securities in time for the receiving party to redeliver them pursuant to a tender offer or other offer that is expiring. The CCC rules, although not procedurally uniform, generally hold the delivering party liable to the receiving party for any damages which may accrue for the failure to make timely delivery of the securities.

OCC currently has no equivalent protect provisions because the procedures of the CCCs would ordinarily provide the requisite protection for the RCM. There are, however, instances in which settlements of exercises, assignments of stock options, and purchases of Market Baskets are required to be settled broker-to-broker subject to OCC's rules and guarantee but without the benefit of the CCC protect procedures. Thus, it is desirable for OCC to implement its own protect procedures.

The most likely situation where such protect procedures would be implemented is during the pendency of tender or exchange offer when settlements cannot be made through the CCCs. When there is a tender or exchange offer for a significant portion of the outstanding shares of an issuer, the existence of options on that underlying security is likely to increase the potential number of obligations to deliver an underlying security without increasing the supply of such security. Thus, it is possible that the combination of actual shares tendered plus option exercises tendered will exceed the publicly available float, thus creating a "short squeeze" and increasing the likelihood of a fail. Even if the shares tendered are less than 100% of the outstanding shares of the company, certificates may not be available for delivery in time to allow DCM's to meet their delivery obligations.

An example of a situation where OCC potentially needed to implement its own protect provisions is the April, 1989 tender offer for Texas Eastern Corporation ("TET") by Pan Acquisition Company. In the TET situation, the tender offer was to expire at 12:00 noon on April 27, 1989, but, due to an error by the New York Stock Exchange ("NYSE"), trading on the underlying security opened that morning.

When trading began, OCC was advised by the NSCC that it might not accept TET exercises for settlement since NSCC could not distinguish between those trades executed prior to the tender deadline and those trades that were executed after the close of tender. If NSCC had refused to accept exercises, then tendering option holders would not have been protected in the event of a failure to deliver the securities. However, if OCC at the time had its own protect provisions in place, it could have directed that settlements be made on a broker-to-broker basis and exercising call holders or put holders would have been able to hold assignees liable for the tender price. (In that particular case, settlements were ultimately effected through NSCC.)

Article VI, section 19 of OCC's By-Laws currently permits OCC to fix a cash settlement value for exercised call option contracts when settlement obligations have been suspended because of a short squeeze and a determination is made by OCC that there is no reasonable likelihood that a sufficient supply of the underlying security will become available. Further, OCC Rule 910 provides that the RCM may "buy-in" (purchase for cash) all or any part of the securities necessary to complete the required delivery upon the failure of OCC or the DCM to effect delivery on the exercise settlement date

or within a permitted period thereafter. Neither of these provisions, however, expressly provides a remedy similar to that of the CCC's whereby a DCM can be held liable for the value of the tender offer price for such securities if such securities are not delivered to the RCM.

The proposed rule change will amend OCC rules to provide the RCM with the same substantive rights in a broker-to-broker settlement that they would have under the CCC procedures. The proposed rule will be applicable only in the unusual instance when settlements cannot be effected through the CCCs and OCC has made the determination to effect settlement on a broker-to-broker basis.

Liability Notice

Under the proposed rule, the liability notice must be delivered no later than 9:00 a.m. central time on the business day preceding the expiration date. If a liability notice is so delivered to the DCM and the DCM fails to deliver the securities on the expiration date, the DCM will be liable for any damages which have accrued. The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act, as amended, because it promotes a fair and orderly market by ensuring the existence of a market for underlying securities which are subject to a tender or exchange offer or other offers which will expire.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants and Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of OCC. All submissions should refer to file number SR–OCC–90–09 and should be submitted by October 12, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 14, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90—22433 Filed 9–20–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17741; 812–7435]

Dean Witter Capital Partners, L.P., et al.

September 14, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Dean Witter Capital Partners, L.P. (the "Fund"), Dean Witter Capital Partners (Retirement Fund), L.P. (the "Retirement Partnership"), (each, a "Partnership") and Dean Witter Capital Advisers, L.P. (the "Managing General Partner").

RELEVANT ACT SECTIONS: Order requested under section 6(c) granting an exemption from the provisions of sections 2(a)(19) and 2(a)(3)(D).

SUMMARY OF APPLICATION: Applicants seek an order determining that (i) The Independent General Partners (as defined below) of each Partnership will not be "interested persons" of such Partnership or of the Managing General Partner solely by virtue of being general partners of such Partnership and co-partners with the Managing General Partner, (ii) the Independent General Partners of a Partnership will not be "interested persons" of such Partnership solely by virtue of their service as Independent General Partners of the other Partnership, and (iii) persons who become limited partners of a Partnership (the "Limited Partners") who own less than five percent of the limited partnership interests of such Partnership will not be "affiliated persons" of the Partnership within the meaning of section 2(a)(3)(D) of the Act solely by reason of their status as Limited Partners.

FILING DATE: The application was filed on November 22, 1989, amended and restated on May 10, 1990, and amended on September 6, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 11, 1990, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. Each Partnership is a newly-formed limited partnership, organized under the Revised Uniform Limited Partnership Act of the State of Delaware (the "Delaware Act"), that will be governed

by a separate Amended and Restated Agreement of Limited Partnership (a "Partnership Agreement"). Each Partnership will elect to be treated as a business development company pursuant to section 54(a) of the Act.

2. The Retirement Partnership is designed for individual retirement accounts, Keogh plans and other tax-exempt investors that will purchase units in that Partnership. Other investors will be permitted to subscribe only for units in the Fund. Dean Witter Reynolds Inc. will act as the selling agent for the units on a "best efforts" basis.

3. The general partners of each Partnership will consist of the Managing General Partner and individual general partners (the "Individual General Partners"). All of the Individual General Partners will be natural persons and at least a majority of the Individual General Partners will not be "interested persons" of the Partnership or of the Managing General Partner (the "Independent General Partners").

4. The Individual General Partners will have overall responsibility for the management of each Partnership. The Individual General Partners will act by majority vote and will perform the same functions as directors of a corporation. The Independent General Partners will assume the responsibilities and obligations of the non-interested directors of a registered investment company.

5. The Managing General Partner is a limited partnership organized under the Delaware Act. The general partner of the Managing General Partner is Dean Witter Capital Advisers Inc. ("DW Advisers"), a special purpose corporation wholly owned by Dean Witter Capital Corporation ("DW Capital"). DW Capital is an indirect wholly owned subsidiary of Dean Witter Financial Services Group Inc., which in turn is a wholly owned subsidiary of Sears, Roebuck and Co.

6. Each partnership considers its relationship with the Managing General Partner to be an investment advisory arrangement. The Managing General Partner will be responsible for purchasing investments that have been approved by the Independent General Partners, for assisting certain portfolio companies in arranging financing, for making managerial assistance available to certain portfolio companies, and for the admission of additional or assignee Limited Partners to the Partnership.

7. The investment adviser to each Partnership is Dean Witter Advisers Inc., (the "Investment Adviser"), a wholly owned subsidiary of DW Capital.[1] The Investment Adviser will be responsible for the identificaton, evaluation, and monitoring of all investments to be made by the Partnership, for determining the net asset value of the Partnership's units, and for performing other functions carried out by the investment adviser of a business development company.

8. Each Partnership Agreement will provide that any person elected or appointed to the office of general partner will hold office until his removal or withdrawal, as the case may be, or until his successor has been elected and admitted at a meeting of the Limited Partners called for the purpose of electing general partners.

9. In an election of individual General Partners by the Limited Partners, those candidates receiving the highest number of votes cast at a meeting at which a majority in interest of the Limited Partners is present, up to the number of Individual General Partners proposed to be elected, will be elected. Each Limited Partner will have one vote for each unit that he owns.

10. Each Partnership Agreement will provide that an Individual General Partner may be removed either for cause by the action of two-thirds of the remaining Individual General Partners or by the vote of a majority in interest of the Limited Partners. The Managing General Partner may be removed either by a majority of the Independent General Partners or by the vote of a majority in interest of the Limited Partners. Subject to the requirement that a majority of the Individual General Partners be Independent General Partners, the Limited Partners at any time may propose and approve a person to be successor to a general partner concurrently therewith being removed by the Limited Partners.

11. If at any time the number of Independent General Partners is less than a majority of the Individual General Partners, the Individual General Partners will be required to appoint and admit such number of Independent General Partners as is necessary to constitute such a majority. In addition, the Individual General Partners may designate and admit successor Individual General Partners to fill vacancies created by the retirement, withdrawal, or removal of the Individual General Partners, without the consent of the Limited Partners being required, provided that immediately after filling any such vacancy at least two-thirds of the Individual General Partners then holding office shall have been elected by the Limited Partners. If at any time less than a majority of the Individual General Partners holding office were elected by the Limited Partners, the general partners shall call a meeting of partners as promptly as possible, and in any event within 60 day, for the purpose of electing Individual General Partners to fill any existing vacancies, unless the Commission shall by order extend such period.

12. A majority of the Individual General Partners, including a majority of the Independent General Partners, may designate one or more successors to a managing general partner removed by the Independent General Partners, subject to the consent of a majority in interest of the Limited Partners.

13. The Limited Partners will have no right to control the Partnership's business, but may exercise certain rights and powers of limited partners under the Partnership Agreement, including voting rights and the giving of consents and approval. It is the opinion of Delaware counsel to the Partnerships that the existence of these voting rights does not subject the Limited Partners to liability as general partners under Delaware law. Each Partnership Agreement will obligate the general partners to take all actions that may be necessary or appropriate to protect the limited liability of the Limited Partners, including a periodic review by the General Partners of the appropriateness of obtaining an errors and omissions insurance policy for the Partnership.

14. The Partnerships have been organized as limited partnerships because of tax considerations and because applicants believe that the partnership form is a more appropriate investment vehicle for a closed-end entity of limited duration that will make a limited number of investments.

15. Each Partnership will terminate upon the liquidation of all of its investment, which is scheduled to be completed within ten years from the closing of the sale of units in the Partnership. In all cases, each Partnership will liquidate its investments by the later of December 31, 2005 or 15 years from the Partnership's final closing.

Applicant's Legal Analysis

1. Section 2(a)(19) of the Act excludes from the definition of "interested person" of an investment company those individuals who could be interested persons solely because they

[1] By letter dated September 12, 1990, counsel for applicants stated that, although neither the Managing General Partner nor Dean Witter Capital Advisers Inc. was then registered as an investment adviser, each such entity would register prior to the Partnerships' registraton statement being declared effective.

are directors of an investment company. There is no equivalent exception for partners. Applicants seek exemption from the provisions of section 2(a)(19) to enable the Independent General Partners of the Partnerships to assume the same type of responsibilities imposed upon directors of an incorporated investment company, who are not deemed to be interested persons of the company under the Act.

2. The Independent General Partners of a Partnership also may be deemed to be "interested persons" of such Partnership by virtue of their service as Independent General Partners of the other Partnership. Applicants believe that service by the same individuals as Independent General Partners of both Partnerships, a relationship similar to one in which an individual serves as a director of multiple investment companies in the same complex, will be beneficial to both Partnerships. Thus, applicants further request that the Independent General Partners of each Partnership be exempted from the provisions of section 2(a)(19) to the extent that they would otherwise be deemed to be "interested persons" of such Partnership solely by virtue of their service as Independent General Partners of the other Partnership.

3. Applicants further request that any Limited Partner owning less than five percent of the units of a Partnership not be deemed an "affilated person" of such Partnership, any other Limited Partner, any of the Independent General Partners, or the Investment Adviser, under section 2(a)(3)(D) of the Act merely because such Limited Partner is a partner of the Partnership or a co-partner with any of such other persons in the Partnership. Limited partners have no exclusion under the Act comparable to that provided under section 2(a)(3) to corporate shareholders with less than a five ownership interest. The requested relief will place investments in the Partnerships on a footing more equal with investments companies organized as corporations.

Applicants' Conditions

Applicants agree that the following conditions will be imposed on any order granting the requested relief:

1. Each of the Partnerships' Individual General Partners will be natural persons. More than 50 percent of the Individual General Partners will not be interested persons of the Partnership.

2. The Individual General Partners will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on directors or general partners of a business development company. The Independent General Partners will assume the responsibilities and obligations imposed by the Act and the regulations thereunder on directors and general partners who are not interested persons of a business development company.

3. The Partnership Agreement will provide that the Managing General Partner will not resign or withdraw unless a successor managing general partner has been appointed in accordance with the Partnership Agreement and the provisions of sections 15(a), 15(c), and 15(f) of the Act.

4. The Limited Partners will be afforded all of the voting rights required by the Act. The Partnership will obtain an opinion of counsel that the voting rights provided the limited partners do not subject the Limited Partners to liability as general partners under Delaware law. If a Limited Partner transfer his units in a manner which is effective under the Partnership Agreement, the General Partner will promptly take all necessary actions to insure that such transferee or successor becomes a substituted limited partner.

5. The Partnership will obtain an opinion of counsel that the distributions and allocations provided for in the Partnership Agreement are permissible under section 205 of the Investment Advisers Act of 1940, as amended (the "Advisers Act") and under section 15(a) of the Act. Except to the extent that the Partnership Agreement allocates income, gain and loss pro-rata to all partners in proportion to their capital contributions, the Managing General Partner and all other investment advisers to the Partnership will not receive or be allocated any portion of capital gains or capital appreciation if, as a result, cumulative allocations or payments or capital appreciation to such persons would exceed twenty percent of cumulative realized capital gains, net of realized capital losses and unrealized capital depreciation.

6. The Partnership will obtain an opinion of counsel that the current structure of the partnership will entitle it to be taxed as a partnership for federal income tax purposes.

7. If, under the Partnership Agreement, the Partnership is or becomes authorized to make in-kind distributions of portfolio securities to its Partners, no such in-kind distributions will be made until such time as the Partnership has obatined a no-action letter from the staff of the SEC or, alternatively, has obtained an order pursuant to section 206A of the Advisers Act permitting such distribution.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-22434 Filed 9-20-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25151]

Public Utility Holding Company Filings

September 14, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 8, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Columbia Gas System, Inc. (70-7800)

Columbia Gas System, Inc. ("Columbia"), a registered holding company, located at 20 Montchain Road, Wilmington, Delaware 19807-0020, has filed a declaration under section 12(d) of the Act and Rules 44 and 50 thereunder.

Columbia proposes to sell 328,000 shares of common stock, $25 par value for $39.2 million, and up to $24.7 million debt, represented by installment and demand notes and short-term advances, issued to Columbia by its natural gas distribution subsidiary, Columbia Gas of New York, Inc. ("Columbia-NY"), to New York State Electric & Gas Corporation ("NYSEG"). Columbia-NY is a natural gas distribution company doing business in Broome, Delaware,

Tioga, Allegheny, Cattaraugus, Chemung, Schuyler, Steuben and Yates counties in the State of New York. NYSEG provides gas and electric service in more than one third of New York state.

For the Commission, by the Divisions of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-22435 Filed 9-20-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended September 14, 1990

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket number: 47168.
Date filed: September 11, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 425—Special Passenger/Cargo Amending Resos, Republic of Yemen.
Proposed effective date: October 1, 1990.

Docket number: 47169.
Date filed: September 11, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 426—Rounding Off Units for United Arab Emirates
Proposed effective date: October 1, 1990.

Docket number: 47170.
Date filed: September 11, 1990.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 427—Mozambique currency.
Proposed effective date: October 1, 1990.

Docket number: 47171.
Date filed: September 14, 1990.
Parties: Members of the International Air Transport Association.
Subject: Various Resolutions.
Proposed effective date: October 1, 1990.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-22420 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 14, 1990

The following applications for certificates of public convenience and necessity for foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47173.
Date filed: September 14, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 12, 1990.
Description: Application of Northwest Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity to enable it to provide scheduled, nonstop service between Los Angeles, California and Mexico City, Mexico.

Docket Number: 46352.
Date filed: September 14, 1990.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 12, 1990.
Description: First Amendment to Application of Air Aruba, N.V., pursuant to section 402 of the Act and subpart Q of the Regulations, moves to amend the captioned application to add the following segment to the requested foreign air carrier permit: (iii) Between Aruba and New York/Newark.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-22419 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Environmental Impact Statement: Blue Earth County, MN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Blue Earth County, Minnesota.

FOR FURTHER INFORMATION CONTACT: James A. Cheatham, District Engineer, FHWA, St. Paul Office, Suite 490, Metro Square Building, St. Paul, Minnesota 55101, (612) 290-3243.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Minnesota Department of Transportation and the Blue Earth County Highway Department, will prepare an environmental impact statement (EIS) on a proposal to construct a new roadway corridor approximately two to three miles south of Mankato, Minnesota. The proposed roadway would be constructed on existing and new alignments for a distance of approximately ten miles.

The new corridor is considered necessary to alleviate existing and forecast traffic congestion, travel delay, air pollution and energy consumption within the City of Mankato. Alternatives under consideration include (1) Taking no action; (2) constructing a two-lane roadway on a northerly corridor beginning at T.H. 83 on the east, then angling north to follow Township Road No. 167, then angling north again and connecting to T.H. 169/60 on the West end of Mankato; (3) constructing a two-lane roadway on a southerly corridor, beginning at T.H. 83 on the east and following the township line, then angling north and connecting to T.H. 169/60 on the west end of Mankato. Alignment alternatives within these corridors will be studied. Two river crossings are involved in both corridors.

A scoping public hearing will be held in the City of Mankato on October 2, 1990. Notices of the hearing are being published in newspapers having general local circulation. The State Scoping Environmental Assessment Worksheet (EAW), Scoping Summary Report and Draft Scoping Decision are currently available for public and agency review and comment. Copies of the Scoping Package have been sent to agencies on the Minnesota Environmental Quality Board (EQB) Distribution List. The comment period for this scoping process ends on October 12, 1990, which allows ten days after the public hearing for submittal of written comments. After preparation of a draft EIS, another public hearing will be held to receive comments. The draft EIS will be available for public and agency review and comment prior to the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on

Federal programs and activities apply to this program.)

Dated: September 13, 1990.

James A. Cheatham,

District Engineer, St. Paul, Minnesota.

[FR Doc. 90-22384 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: West Virginia Counties of Grant, Hampshire, Hardy, Mineral, Pendleton, Randolph, and Tucker, and the Virgina Counties of Frederick and Shenandoah

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a Draft Environmental Impact Statement (DEIS) will be prepared for a proposed Appalachian Corridor System highway project in the West Virginia Counties of Grant, Hampshire, Hardy, Mineral, Pendleton, Randolph, and Tucker, and the Virginia Counties of Frederick and Shenandoah.

FOR FURTHER INFORMATION CONTACT: Billy R. Higginbotham, Division Administrator, Federal Highway Administration, 550 Eagan Street, suite 300, Charleston, West Virginia, 25301, Telephone: (304) 348-3093.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the West Virginia Department of Transportation, will prepare a supplement to the DEIS on a proposal to construct an approximately 110- to 130-mile highway; completing Corridor H of the Appalachian Development Highway System in northeastern West Virginia to Interstate 81 in Virginia. The original DEIS for the proposed project (FHWA-WV-EIS-81-01-D) was approved on March 13, 1981. The proposed Corridor H facility provides a divided, four-line highway with partial control of access on new and existing location between the towns Elkins, West Virginia and either Strasburg or Winchester, Virginia. As prescribed by the 1965 Appalachian Regional Development Act, the corridor system is intended to open up the Appalachian Highlands Region for development potential where commerce and communication have been inhibited by lack of adequate access.

In accordance with 23 CFR 771.130(a), a supplemental DEIS is being prepared on the basis of the significant regulatory and procedural changes which have occurred since the DEIS was approved in 1981.

Alternatives under consideration include: (1) The No-Build Alternative, which consists of taking no action; or (2) the Build Alternative, which consists of five possible build alternates and their respective sub-alternates. The western terminus of all five build alternates is in Elkins, West Virginia. The eastern terminus of two build alternates is in Winchester, Virginia on I-81. The eastern terminus of the three remaining build alternates is in Strasburg, Virginia on I-81.

The supplemental DEIS will also include the evaluation of possible alternate avoidance routes along the southernmost alignment in the vicinity of the Spruce Knob/Senca Rocks National Recreation Area.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this project. Public meetings will be held in the study area prior to the public hearings. A formal scoping meeting will be held at 10 a.m., on October 30, 1990. The location of the scoping meeting will be at the West Virginia Division of Natural Resources Operations Center, Ward Road, Elkins, West Virginia.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the DEIS should be directed to the FHWA at the address provided on the previous page.

Dated: September 1990.

Billy R. Higginbotham,

Division Administration.

[FR Doc. 90-22401 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 17, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB number: 1545-1028.
Form number: None.
Type of review: Revision.
Title: Election by a Passive Foreign Investment Company to be a Qualified Electing Fund.
Description: This regulation specifies how passive foreign investment companies elect to become qualified electing funds. Because of a statutory change, these procedures are no longer necessary; see Notice 88-125, 88-2 C.B. 535. However, certain other elections to be made by U.S. shareholders of these companies are still required, and these regulations prescribe rules for those elections.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated number of respondents: 400,000.
Estimated burden hours per response: 3 hours.
Frequency of response: Annually, One time only.
Estimated total reporting burden: 206,250 hours.
OMB number: 1545-1073.
Form number: 8801.
Type of review: Revision.
Title: Credit for Prior Year Minimum Tax.
Description: Form 8801 is used by individuals, estates, trusts, and corporations to compute the minimum tax credit, if any, available from a tax year beginning after 1986 to be used in the current year or to be carried forward for use in a future year.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated number of respondents: 100,000.
Estimated burden hours per response/ Recordkeeping:
Recordkeeping—1 hour, 33 minutes.
Learning about the law or the form—1 hour, 3 minutes.
Preparing the form—1 hour.
Copying, assembling, and sending the form to IRS—17 minutes.
Frequency of response: Annually.
Estimated total reporting burden: 389,000 hours.
Clearance officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive

Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-22394 Filed 9-20-90; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements for OMB review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256. USIA is requesting approval of a proposed information collection entitled "AmPart Questionnaire." This is a new information collection. The information obtained by this questionnaire will be used to elicit volunteer speaker services. Estimated burden hours per response is 15 minutes. Respondents will be required to respond only one time.

DATES: On or before October 22, 1990.

COPIES: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Office for USIA; and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Debbie Knox, United States Information Agency, M/ASP, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619-5503; and OMB review: Mr. C. Marshall Mills, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the United States Information Agency, M/ASP, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: AmPart Questionnaire.

Form number: IAP-120.

Abstract: The AmPart program seeks through a voluntary response survey of its former speakers to obtain recommendations for prospective AmParts and to elicit volunteer speaker services from past AmParts. The survey will also increase on-going consultation and improve maintenance of accurate information in prospective speaker data bank.

Proposed frequency of responses:

Number of Respondents—1,200.
Recordkeeping Hours—80.
Total Annual Burden—380.

Dated: September 17, 1990.

Rose Royal,

Federal Register Liaison.

[FR Doc. 90-22363 Filed 9-20-90; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 184
Friday, September 21, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the regular meeting of the Farm Credit Administration Board (Board) scheduled for Tuesday, October 2, 1990, will not be held.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: September 19, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 90–22531 Filed 9–19–90; 11:06 am]

BILLING CODE 6705–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, September 26, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 18, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–22522 Filed 9–19–90; 10:29 am]

BILLING CODE 6210–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, October 1, 1990, in Stanford, California; and at 8:30 a.m. on Tuesday, October 2, 1990, in San Mateo, California. The October 1 meeting, at which the Board will discuss possible strategies in collective bargaining negotiations, is closed to the public (See 55 F.R. 38439, September 18, 1990). The October 2 meeting is open to the public and will be held on the third floor of the San Mateo Postal Data Center, 2700 Campus Drive, San Mateo. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

Agenda

Monday Session

October 1—1:00 p.m. (Closed)

1. Status Report on Collective Bargaining Negotiations. (David H. Charters, Senior Assistant Postmaster General, Human Resources Group)

Tuesday Session

October 2—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, September 10–11, 1990.
2. Remarks of the Postmaster General. (Anthony M. Frank)
3. Board of Governors 1991 Budget. (Robert Setrakian, Chairman)
4. Board of Governors 1991 Meeting Schedule. (Mr. Setrakian)
5. Report on Administrative Services Group. (Mitchell H. Gordon, Senior Assistant Postmaster General, Administrative Services Group)
6. Report on Operations Support Group. (John G. Mulligan, Senior Assistant Postmaster General, Operations Support Group)
7. Tentative Agenda for November 5–6, 1990, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 90–22614 Filed 9–19–90; 3:51 pm]

BILLING CODE 7710–12–M

Federal Register

Friday
September 21, 1990

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late-season frameworks from which States may select season dates, limits, and other options for the 1990–91 migratory bird hunting season. These late seasons include most waterfowl seasons, the earliest of which generally commence on or about October 1, 1990. The effects of this final rule are to facilitate the selection of hunting seasons by the States to further the annual establishment of the late-season migratory bird hunting regulations. State selections will be published in the Federal Register as amendments to §§ 20.104 through 20.107 and § 20.109 of title 50 CFR part 20.

EFFECTIVE DATE: September 21, 1990.

ADDRESSES: Season selections from States are to be mailed to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington DC 20240. Comments received are available for public inspection during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634-Arlington Square, Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 1990

On March 14, 1990, the Service published for public comment in the Federal Register (55 FR 9618) a proposal to amend 50 CFR part 20, with comment periods ending July 20, 1990, for early-season proposals; and August 27, 1990, for the late-season proposals. A supplemental proposed rulemaking for both early and late hunting season frameworks appeared in the Federal Register dated June 6, 1990 (55 FR 23178).

On June 21, 1990, a public hearing was held in Washington, DC, as announced in the Federal Register of March 14 (55 FR 9618), June 6 (55 FR 23178), and June 8 (55 FR 23487), 1990, to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons. On July 10, 1990, the Service published in the Federal Register (55 FR 28352) a third document in the series of proposed, supplemental, and final rulemaking documents which dealt specifically with proposed early-season frameworks for the 1990–91 season.

On August 2, 1990, a public hearing was held in Washington, DC, as announced in the Federal Register of March 14 (55 FR 9618), June 6 (55 FR 23178), and July 10 (55 FR 28352), 1990, to review the status of waterfowl. Proposed hunting regulations were discussed for these late seasons. On August 14, 1990, the Service published a fourth document (55 FR 33264) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits for 1990–91. The fifth document in the series, published August 17, 1990, in the Federal Register (55 FR 33842), dealt specifically with proposed frameworks for the 1990–91 late-season migratory bird hunting regulations. On August 28, 1990, the Service published in the Federal Register (55 FR 35266) a sixth document consisting of a final rule amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons. This document, which establishes final frameworks for late-season migratory bird hunting regulations for the 1990–91 season, is the seventh in the series.

Special Assessments

The use of special regulations proliferated during the 1960's when low populations of some species of ducks precipitated reductions in bag limits and season lengths. In the 1970's, duck populations rebounded and the Service, States, and Flyways further expanded the use of special regulations in an attempt to meet the rapidly growing demand for harvest opportunities. In the 1980's, duck populations again declined and several species reached all time lows. Annual frameworks became progressively more restrictive and, in 1988, the point system, bonus bag limits for teal and scaup, special seasons for teal and scaup, and shooting hours were either modified or suspended. Also in 1988, the Service completed a programmatic Supplemental Environmental Impact Statement (SEIS) on the "Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)." In the SEIS, the Service selected stabilized framework regulations and controlled use of special regulations as the preferred alternative. As a result, the Service decided to evaluate the regulatory strategies that had been suspended or modified in 1988. At the same time, the Service decided to evaluate zones for duck hunting, which have been operating under a moratorium since 1985, and split seasons, which have been operating under a moratorium since 1986. The Service requested information and new data from the Flyway Councils in 1988, prepared draft reports on these issues in 1989, and circulated these to the Flyways Councils in January 1990. After analyzing the comments received on the draft reports, the Service prepared final reports which were mailed to the Flyway Councils and other interested parties in July 1990. As a result, the Service developed long-term strategies to guide our future management decisions for these issues.

The strategies for all these issues have been finalized and are presented in this document. Although long-term strategies for some of these issues and subsequent comments were already covered in previous Federal Register documents (55 FR 28352 and 55 FR 33264), they are repeated here to facilitate current comparison with late-season issues, illustrating the continuity in reasoning the Service has followed in developing these long-term strategies. Publishing all of the strategies and responses to comments in the same document will also assist in future reference work.

Comments received on the draft and final reports, the Service responses to these comments, and the long-term strategies are included below.

Shooting Hours

Comments: The Central and Atlantic Flyway Councils and the Florida Game and Fresh Water Fish Commission recommended shooting hours beginning at one-half hour before sunrise for regular and special duck seasons. The Upper and Lower Region Regulations Committees of the Mississippi Flyway Council recommended that shooting hours begin at one-half hour before sunrise for regular seasons, but at sunrise during special duck seasons or where special circumstances exist. The Maryland Department of Natural Resources commented that a sunrise opening may have contributed to a decline in their State duck harvest in 1988 and overly restricted the opportunity to harvest wood ducks.

Response: The Service believes that there is sufficient evidence to demonstrate that for seasons where most ducks can be legally taken, shooting hours beginning at one-half hour before sunrise do not contribute significantly to the harvest of non-target species or illegal kill. Compared to the remainder of the day, the proportion of the daily duck kill occurring before sunrise is relatively small.

However, no evidence has been presented to assess the impact of presunrise shooting during special seasons in which only limited numbers of species may be harvested legally. Until studies are initiated or evidence is available, shooting hours for these seasons should begin at sunrise. Currently, shooting hours begin at one-half hour before sunrise for September wood duck seasons. States will be allowed to continue these shooting hours during the 1990–91 season, but will be required to conduct studies or provide information to assess the impact of such shooting hours on non-target species. Otherwise, shooting hours for September wood duck seasons will be changed to sunrise.

The Service believes a sunset closing is appropriate for all duck seasons. The evening twilight period is characterized by rapidly decreasing illumination. Birds shot near the end of the twilight period could be difficult to find. A sunset closing provides ample time with adequate light to find and retrieve downed birds.

Special September Teal Seasons

Comments: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended continued use of September teal seasons. The Upper Region Regulations Committee of the Mississippi Flyway Council recommended the continued use of these seasons with additional requirements that would reinstate the season when teal populations increased, but would require improved information gathering for monitoring populations during periods of low duck abundance. The Maryland Department of Natural Resources and the Florida Game and Fresh Water Fish Commission recommended allowing special seasons for teal when population levels are determined to be satisfactory and the States can adequately evaluate the harvest. The Central Flyway Council supported the proposed strategy.

Response: The Service believes that September teal seasons have been thoroughly evaluated and modified in the Central and Mississippi Flyways to provide harvest opportunity on a segment of the blue-winged teal population that is generally unavailable during the regular duck seasons. The Service's review of available evidence suggests that September teal seasons are not responsible for the recent decline of blue-winged teal populations. Furthermore, the harvest of species other than teal during September seasons is low. Therefore, the Service considers September teal seasons to be an acceptable harvest management strategy. When and if reinstated, September teal seasons in the Central and Mississippi Flyways must follow the geographic and framework criteria that were operational during the last year they were offered by the Service.

Special Scaup Seasons

Comments: The Upper and Lower Region Regulations Committees of the Mississippi Flyway Council and the Atlantic Flyway Council supported continued use with additional restrictions. The Atlantic Flyway Council suggested reinstatement when populations are adequate; the Lower Region Regulations Committee of the Mississippi Flyway Council remarked that low harvest rates indicated that this management option had not adversely affected scaup; while the Upper Region Regulations Committee of the Mississippi Flyway Council requested continuance of the special scaup season when populations show a sustained increasing trend and further requested improved databases in order to more efficiently monitor key population parameters if seasons were to continue at low population levels. The Central Flyway Council and the South Dakota Department of Game, Fish, and Parks requested that the special scaup season be reinstated.

The Maryland Department of Natural Resources commented that special seasons should be permitted when the population status of the target species is considered to be at a satisfactory level and States can meet the requirements to evaluate the impact of harvest resulting from such seasons. The Florida Game and Fresh Water Fish Commission supported continued use when population levels (3-year running average) allow; but noted that obtaining additional information to conclusively evaluate these seasons may be cost-prohibitive and not an efficient use of limited natural resource funds. The New Jersey Department of Environmental Protection supported continued use because the derivation of birds hunted in New Jersey is primarily from eastern Canada and current restrictions are discouraging hunters. The New York State Department of Environmental Conservation supported the comments of the Atlantic Flyway Council to reinstate the option when population levels are adequate.

Response: The Service's review of available evidence suggests that special scaup seasons are not responsible for the decline in scaup numbers; however, existing data are inconclusive. Despite various efforts, special scaup seasons can not be adequately evaluated with available data. Nevertheless, additional information can be obtained and an adequate evaluation of this season is feasible and necessary. Consideration of the species composition (e.g., proportion of lesser scaup, greater scaup, ring-necked duck, and goldeneyes) in the special season harvest and their population status should be included in any evaluation. Therefore, the Service is continuing the suspension of special scaup seasons pending the development of an adequate evaluation plan.

Bonus Teal and Scaup Bag Limits

Comments: The Upper and Lower Region Regulations Committees of the Mississippi Flyway Council and the Atlantic Flyway Council supported continued use with additional restrictions. The Atlantic Flyway Council suggested reinstatement when populations are adequate. The Upper Region Regulations Committee of the Mississippi Flyway Council requested continuing the bonus options when populations have sustained an upward trend for several years. The Central Flyway Council and the South Dakota Department of Game, Fish, and Parks requested that the bonus option be reinstated. The Council believes that bonus bag limits allow northern States to take advantage of additional recreational opportunities offered by species with low harvest rates and that options of special seasons are not a reasonable approach in some northern States.

The Florida Game and Fresh Water Fish Commission noted that bonus bag limits have a much greater impact on non-target species than do special seasons. They requested that populations of target species and all ducks be considered before reinstatement of these options. The New Jersey Department of Environmental Protection supported continued use because green-winged teal populations are at favorable levels. New York State Department of Environmental Conservation supported the comments of the Atlantic Flyway Council to continue use with additional restrictions.

Response: Bonus bag limits have been used to provide additional harvest opportunity on a few species during the regular duck season. These species were generally considered lightly harvested and capable of withstanding additional harvest pressure. However, bonus bag limits can increase harvest of all species, not just the bonus species. The Service believes that the effects of bonus bag limits cannot be adequately evaluated and that bonus bag limits likely increase the harvest of non-bonus species. Therefore, the Service does not consider the use of bonus bag limits to be an acceptable harvest management strategy.

Point System

Comments: The Atlantic Flyway Council suggested offering a point system which is as restrictive in terms of bag limits as the conventional bag limit, pending further measures to make the point system acceptable in select areas. They cite that the long-term evaluations have suggested that the point system has not been effective at redirecting harvest pressure. The objective of the point system should be to provide regulatory flexibility rather than to create opportunity to increase the size of the daily bag. Maintaining a point system would also allow States the ability to direct additional protection to high-point birds beyond that afforded by species restrictions under the conventional bag limit. The Upper Region Regulations Committee of the Mississippi Flyway Council commented that the draft report did not adequately address hunter perceptions of the point system. They noted that many problems identified with the point system are also attributable to the conventional bag limit and recommended further evaluation and study. The Lower Region Regulations Committee supported the use of the point system with additional restrictions. They suggested using comparable point values for species of concern and a "comparability+1" for species in favorable status. The Central Flyway Council continued to endorse the point system and remarked that additional 100-point birds will be harvested under the conventional system. They also state that incentives are necessary for States to select the point system over the more liberal conventional system. Additionally, the Council believes the Service has failed to demonstrate that reordering has any negative impacts on total harvest or that the conventional system has a clear advantage over the point system in directing harvest at certain duck species or sexes.

The Maryland Department of Natural Resources noted that the point system gave greater protection to high-point birds and requested that values should not be such that the point system bag limit could be greater than under the conventional bag limit. They recognized that reordering was an inherent problem of the point system that is virtually unenforceable. The Florida Game and Fresh Water Fish Commission noted that the point system has many attributes and most of it's drawbacks apply equally to conventional bag limits. They also recognized the potential for reordering violations, but stated that the point system is effective at redistributing harvest. Florida supported continued use at "comparability+1", pending clarification of the impact of illegal activity associated with this option. The New Jersey Department of Environmental Protection remarked that there was little reason to support a system that no longer provided additional hunting opportunity, but supported the Atlantic Flyway Council request that comparability continue pending further measures to make the system acceptable in select areas. The New York State Department of Environmental Conservation also supported the comments of the Atlantic Flyway Council. The State Wildlife agencies of Kansas and South Dakota supported the recommendations of the Central Flyway Council.

Response: Since 1918, the conventional bag limit has been the system most commonly used to regulate the daily limit on ducks. The Service has been unable to demonstrate that the point system has clear advantages over the conventional bag system relative to the point system's original objectives, which were (1) to reduce bag-limit violations by providing the hunter with a system which does not require in-flight identification of ducks, and (2) to direct harvest toward certain species of sexes of ducks and away from others. The conventional bag-limit system is flexible, allows a variety of harvest opportunities, and can be directed at certain duck species or sexes.

A major problem with the point system is the potential for reordering of the bag. When reordering occurs, it negates the original intents of the point system. A point system which has bag limit restrictions equal to the conventional bag-limit system is at least as conservative as the conventional bag and has the potential of being more restrictive. The Service feels that use of the point system in this context is supported by available information. However, any additional ducks in the bag under the point system could remove the potential to be more restrictive and result in increased harvest of all ducks.

Zones and Split Seasons for Ducks

Comments: The Atlantic Flyway Council suggested maintaining existing zone and split options, granting operational status to experimental zones that have successfully met Service criteria, and applying the same criteria to future zoning proposals. They remarked that States should not be held accountable for perceived inadequacies in evaluation criteria. Virtually all evaluations have concluded that zoning had little impact on duck populations. Zones and splits have not prevented the Atlantic Flyway from accomplishing harvest management objectives. They commented that zones and splits are intended to increase hunter satisfaction and should not be used as a mechanism for controlling harvest. The Upper Region Regulations Committee of the Mississippi Flyway Council commented that because the data are deficient to accommodate any effective evaluation of the aspects of splits and zones because it is unlikely that more reliable information will be generated in the near future, the Committee recommended continued use with uniform guidelines. Guidelines would govern the establishment and amendment of zones and split seasons. For example, the number of zones allowed within a State could be based on criteria which considered latitudinal and altitudinal gradients and whether coastal and inland habitats are involved. The Lower Region Regulations Committee suggested restricted use and recommended that criteria allowing for zoning and split-season options should apply throughout the flyway. The Central Flyway Council suggested continued use with the option being available to all States willing to meet reasonable evaluation criteria. The Central Flyway Technical Committee remarked that the Service did not attempt to evaluate the cumulative impact of zones on duck populations, that the report erroneously implied rigorous experiments were feasible, and that the Service should not assume that hunting mortality is additive when the relationship between harvest rate and survival is unclear.

The Maryland Department of Natural Resources commented that these options have been used primarily to improve hunter satisfaction and that harvest objectives, including reductions, can and have been accomplished using other regulatory tools while mair taining zones

and split seasons. The Florida Game and Fresh Water Fish Commission supports the Service's position and believes that zones and splits are intended to benefit hunter satisfaction rather than hunter success. They agree that proliferation of these options has exceeded our ability to assess their impact and suggest restricted use within limits. They further suggest that zones and split seasons not be used together and that the number of zones or splits permissible be based on geographic criteria. The Pennsylvania Game Commission added that zones and split seasons have functioned quite well in their State and without increases in hunting pressure or harvest. The New Jersey Department of Environmental protection supported continued use, but felt that further evaluations were unnecessary. They commented that returning to a continous statewide season would be unacceptable due to the spatial and temporal distrubution of ducks within the State. The New York Department of Environmental Conservation remarked that this regulatory option provides needed flexibility in a large and ecologically diverse State such as New York. Without zones and split seasons, it would be impossible to provide satisfactory hunting opportunity for most New York waterfowlers. They further noted that precise estimates of the effects of zoning and split seasons are unlikely because the potential effects are highly variable depending on the season dates selected and other factors. The Kansas Department of Wildlife and Parks requested that they be ablt to "grandfather-in" the 3-way splits in both the High and Low Plains Units of Kansas. They also question the rationale concerning restrictions agains zoning simultaneously within the two units.

Response: The Service has provided evidence that the nationwide proliferation of zones and split seasons through 1984 did not increase overall harvest pressure on ducks. Therefore, the Service will allow States the option of continuing these regulatory strategies. However, the Service's ability to predict the impact of unlimited zones and split-season combinations is poor, suggesting that some limits must be imposed to guide future use of these options.

Final Service Strategies

Shooting Hours

The Service will allow shooting hours to begin at one-half hour before sunrise during the regular duck season or any season in which most species of ducks can be legally taken. For species-specific duck seasons, shooting hours will begin at sunrise unless States can demonstrate that the impact of presunrise shooting hours on non-target species is negligible. Shooting hours during all seasons shall end at sunset.

Special Seasons

The Service considers special seasons to be an acceptable a harvest management strategy, if the seasons have been carefully designed, evaluated, and refined. The Service concludes that certain groups of birds, populations, or segments of populations (due to their unique biological circumstances, temporal or spatial distributions, and population status) can provide additional harvest opportunities outside of those which are available during the regular hunting seasons. Special season regulations (i.e., season length and bag limits) should be consistent with population status. Evaluation procedures and design criteria for special seasons should be developed cooperatively between the Service and Flyway Councils. After thorough evaluation, the Service and Councils would cooperate to establish the implementation criteria and review schedule for each special season.

Bonus Bag Limits

The Service is discontinuing the use of all bonus bag limits because bonus limits have not been adequately evaluated, offer limited potential for adequate evaluation on target and non-target species, and can increase harvest on non-target species.

Alternative Bag Limit Systems

Alternatives to the conventional bag-limit system will be considered but should meet certain criteria: (1) Have well-defined objectives that are relevant to harvest-management goals; (2) be subject to practical evaluation; and (3) realize clear advantages, based on intent, over the conventional system. Any future systems will be evaluated against the conventional bag system.

Regarding the point system, the Service is continuing the use of the point system as a bag-limit option, but it will be at least as restrictive as the conventional bag-limit system in terms of total bag and species/sex restrictions. This may allow States to direct additional protection to high-point birds beyond that afforded by species restrictions under the conventional bag-limit system.

Zones and Split Seasons for Ducks

The use of zones and splits for duck hunting is considered an acceptable means by which States can redistribute harvest opportunities. States may not use zones and split seasons to increase total duck harvest, to detrimentally change species composition of the harvest, or to change the distribution of harvest within the flyway. Although the Service will allow the continued use of zones and split seasons, both the number of options available and the frequency with which zone/split modifications can be made will be limited. These limitations are deemed necessary to preserve and enhance the Service's ability to regulate and evaluate overall harvest pressure on ducks.

Beginning in 1991, States may select to zone or split their duck hunting seasons using the following guidelines. Zones are defined as portions of a State with independent season dates.

1. *Basic Option:* The Basic Option, available at any time to any State, would allow the regular duck season to be split into two segments with no zones.

2. *Alternative Options:* Where the Basic Option is deemed undesirable, States could choose either:

a. No more than three zones with no splits,

b. A 3-way split season with no zones, or

c. Two zones with the option for 2-way split seasons in one or both zones.

3. *Special Management Unit Limitation:* Within existing flyway boundaries, States may not zone and/or use a 3-way split season simultaneously within a special management unit and the remainder of the State.

4. *"Grandfather Clause":* Those States that currently have an operational zoning plan, or those that have experimental zoning plans and have successfully met the Services 1977 evaluation criteria for zoning experiments, will be allowed to continue those zoning plans. States that have not fulfilled obligations for evaluation as specified in Memoranda of Agreement will be subject to the new guidelines. Any State using a 3-way split season simultaneously within a special management unit and the remainder of the State prior to 1986 (the year a moratorium was placed on further conversions to 3-way split seasons) will be allowed to continue that practice (i.e., Kansas). States with split-seasons or zoning plans that can be "grandfathered-in", but that wish to make major modifications in these plans, will also be subject to the new guidelines. Eligible States that wish to take advantage of this "Grandfather Clause" must do so in 1991.

5. *Modifications:* The Service will consider requests from States wanting

to change from the Basic Option to an Alternative Option, change among Alternative Options, or change zone boundaries, at 5-year intervals (i.e., during "open seasons" in 1991, 1996, 2001, etc.). States would be allowed to change to the Basic Option at any time. States retain the option of making annual modifications to season date and bag limit selections.

6. *Review:* States will be required to provide the Service with a review of pertinent data (e.g., estimates of harvest, hunter numbers, hunter success, etc.) at the end of 5 years after any changes in splits or zones (except conversions to the Basic Option). This review does not have to be the result of a rigorous experimental design, but nonetheless should assist the Service in ascertaining whether major undesirable changes in harvest or hunter activity occurred as a result of split and zone regulations.

Review of Comments and the Service's Response

Public hearing and written comments received through August 27, 1990, relating to proposed late-season frameworks are discussed and addressed here. These late-season comments are summarized and discussed in the same order used in the March 14, 1990 **Federal Register** (55 FR 9618). Only the numbered items pertaining to late-season comments are included.

General Comments

Public Hearing Comments: John Grandy, representing the Humane Society, and Wayne Pacelle, representing the Fund for Animals, presented their views on the process of setting annual hunting regulations for migratory birds and claimed that the views of some groups and individuals receive less consideration than others. Bill Montoya, representing the Central Flyway Council, expressed appreciation for the Council's ability to provide input into the regulation-setting process. Bob Creeden, repersenting several waterfowl organizations in the mid-Atlantic and northeast portion of the Atlantic Flyway, and Joseph Rowan, representing Ducks Unlimited, expressed appreciation for the initiation of coordinated breeding population surveys across eastern Canada and northeastern U.S. in 1990. Vernon Bevill, representing the Mississippi Flyway Council, stated that the Council recognized that habitat improvement is a critical need in waterfowl management and looks forward to working with the Service on the North American Waterfowl Management Plan.

Written Comments: One local organization from New York disagreed with some statements made at the public hearing by two other groups. These statements claimed that comments made by hunting organizations receive more consideration than those comments made by anti-hunting groups. The local organization from New York cited the disappointment they have felt in recent years as the Service has implemented and maintained a restrictive posture toward hunting regulations. Further, this organization also supported initiation of the surveys in eastern Canada and the northeast United States. The Central Flyway Technical Committee recommended that Service proposals remain unchanged after the public hearing and before publication of proposals. They further recommended an open process between the Service and consultants beginning with the status meeting. Shortening the early-season process by eliminating one day of meetings was also recommended.

Response: The Service intends that adopted final rules be as responsive as possible to all concerned interests; therefore, all relevant comments received during the comment period will be considered in the development of final regulations.

The Service attempts to set annual regulations based on the best available data. Surveys initiated during 1990 in portions of the previously unsurveyed areas should improve our knowledge about the status and trends of waterfowl populations in eastern breeding areas. The Service also recognizes the need for habitat improvement and looks forward to cooperating with with the Councils in many habitat-related endeavors.

1. Shooting Hours

Public Hearing Comments: Vernon Bevill, representing the Mississippi Flyway Councils, commended the Service for stablizing shooting hours.

Written Comments: All four Flyway Council, the State or Arkansas, a local organization from Massachusetts, a local organization from New York, and an individual from California supported the proposed shooting hours for ducks. An individual from Nevada requested that shooting hours begin at 15 minutes before sunrise. An individual from Louisiana requested shooting hours of sunrise to 1 pm; while another from Tennessee requested shooting hours of sunrise to noon. The North American Wildlife Foundation, the Fund for Animals, and two individuals requested that shooting hours begin at sunrise.

Response: Consistent with the Service's long-term strategy for shooting hours, these frameworks, unless otherwise specified, contain shooting hours of one-half hour before sunrise to sunset.

2. Frameworks for Ducks in the Conterminous United States—Outside Dates, Season Length and Bag Limits

a. Harvest Strategy

Public Hearing Comments: John M. Anderson, representing the National Audubon Society, urged the Service to maintain nearly the same regulations as those that were in effect in 1989, because the status of ducks is similar to that of last year. He believes that the harvest rates on mallards have been reduced about as far as possible, and commended the States and the Service for their efforts to do so. Joseph Rowan, representing Ducks Unlimited, presented his group's apparisal of the status of breeding duck populations and supported the restrictions on blue-winged teal, lesser scaup, and pintails.

Written Comments: A United States Congressman and two individuals from New Jersey, one local organization and two individuals from New York, and two local organizations from Massachusetts, remarked that regulations were overly restrictive in the Atlantic Flyway. They believe the derivation of Atlantic Flyway harvest justifies separating the flyway's regulations from the conditions on the prairie breeding grounds. One individual from California supported the proposed regulations for ducks, but asked that the Service not restrict harvest any further.

The North American Wildlife Foundation believes that the State of California should not be considered equally with the rest of the continent and the rest of the Pacific Flyway when setting waterfowl hunting regulations. They believe that, due to the extensive waterfowl management on private lands, California has separate and distinct management needs which have not been adequately addressed to date. They further request that a management plan be developed to quantify what portion of the ducks that migrate through California are derived from the prairie breeding grounds and to determine the extent of local mallard production. With the exception of California, they encourage the Service to return to restrictive regulations as in 1988.

Response: The Service appreciates support for the conservative frameworks. Population and habitat conditions remain mostly unchanged from last year, although recent precipitation in some areas of the

breeding grounds has reduced soil moisture deficits and increased vegetative cover. Recovery will likely take several years of normal or above-normal precipitation. The Service believes that reduced harvests are prudent during this time period. However, current harvest rates indicate that additional restrictions are not needed at this time. The frameworks herein (framework dates, season length, and bag limits) are essentially the same as those provided during the past two years.

In regard to the Atlantic Flyway, the Service notes that little production data are available from outside the surveyed areas upon which to base management programs. Also, ducks migrating to the Atlantic Flyway originate both from within and outside the surveyed areas. Hopefully, surveys initiated during 1990 in portions of previously unsurveyed areas will improve our knowledge of waterfowl populations in eastern North America.

In regard to California, the Service is aware that some Californians hold the viewpoint that their State has separate and distinct management needs and requires separate treatment for waterfowl harvest management, particularly as it pertains to mallards and pintails. The Service, the Pacific Flyway Council, the individual States including California, and the Canadian Wildlife Service are currently working to improve the database for the Pacific Flyway. The Service is hopeful that this information will improve our knowledge of harvest derivation and distributional patterns of waterfowl wintering and breeding in California and elsewhere in the West.

b. Framework Dates

Public Hearing Comments: Vernon Bevill, representing the Mississippi Flyway Council, and Bill Montoya, representing the Central Flyway Council, stated that framework dates should not be used as an annual regulatory tool and asked the Service to work with the Flyway Councils to review this matter.

Written Comments: The Upper Region Regulations Committee of the Mississippi Flyway Council and the Pacific Flyway Council recommended October 6 through January 6, the Lower Region Regulations Committee of the Mississippi Flyway Council recommended October 6 through January 13, the Atlantic Flyway Council recommended October 1 through January 12, while the Central Flyway Council recommended a floating framework of the Saturday nearest October 1 through the Sunday nearest January 20; which would be September 29 through January 20 for the 1990–91 season. The Councils stated that framework dates should not be used to control harvest and that the Service and Flyway Councils should investigate the possibility of standardizing framework dates during the coming year. The Atlantic Flyway Council stated that the earlier opening framework date would allow northern Atlantic Flyway states to open earlier, targeting ducks that are produced in the northeast U.S. and eastern Canada and would not impact ducks derived from the prairie breeding grounds. The Florida Game and Fresh Water Fish Commission endorsed the continuation of restrictive framework dates. An individual from Louisiana requested a closing date of January 13.

Response: Framework dates for the 1990–91 duck season, October 6 through January 6, are essentially the same as in the 1988–89 and 1989–90 seasons. The Service will review the matter of framework dates in cooperation with the Flyway Councils during the coming year and herein solicits from States and Flyway Councils technical information that will be useful in this review.

c. Season Length

Public Hearing Comments: Bob Creeden, representing several waterfowl organizations in the mid-Atlantic and northeast portion of the Atlantic Flyway, supported the recommendations of the Service and the Atlantic Flyway Council for a 30-day season, and also supported an additional 5 days for green-winged teal only, to be held during late October to mid-November in States from Virginia northward. Bob Jungman, representing the Wetland Habitat Alliance of Texas, suggested a 45-day season.

Written Comments: The Atlantic Flyway Council, the Central Flyway Council, and the Upper and Lower Region Regulations Committees of the Mississippi Flyway Council recommended no change in season length for 1990–91. The Pacific Flyway Council recommended an additional day to accommodate split seasons that could open on Saturdays and close on Sundays. They cited that this would have no biological impact but would reduce hunter confusion. The California Waterfowl Association supported the Pacific Flyway Council recommendation. The Arkansas Game and Fish Commission requested that states be able to forfeit afternoons in exchange for additional mornings of duck hunting. Two local organizations from Massachusetts and a local organization from New York requested 40-day seasons; and one local organization and two individuals from New York remarked that the current 30-day season is unfair because they believe that most birds in the Atlantic Flyway originate from eastern Canada. An individual from Louisiana requested a 45-day season for all flyways, while an individual from California requested that the season length for the north zone of Missouri be increased from 30 to 37 days. The Florida Game and Fresh Water Fish Commission, an individual from California, and an individual from Wisconsin supported the proposed season lengths.

In a separate recommendation, the Atlantic Flyway Council recommended five additional days for green-winged teal only, and requested that the Service cooperate with the Council in developing more specific parameters for the special season by next year. Two local organizations from New York supported the Atlantic Flyway Council recommendation; one of these organizations believed that if the season were held in October it would minimize the effects on blue-winged teal.

Response: Since population levels have not improved for many species of ducks since last year, the Service believes that increasing the season length is not warranted. The 1990 season lengths are the same as those in effect during the 1988 and 1989 seasons.

In regard to the Arkansas proposal, the Service notes that half-day shooting is a management technique used in some areas to hold birds to prolong and increase harvest opportunities. Morning-only hunting will not likely result in reduced harvest.

The proposal for 5 additional days for a special green-winged teal season did not include an adequate justification. The Service will cooperate with the Atlantic Flyway Council to develop a more specific proposal in the future. An adequate proposal must include a justification based on sound data, recommendations on bag limits, framework dates, geographical areas to be included, and an evaluation program.

As a general comment on special seasons, the Service notes that for most species whose migration and wintering patterns are similar to other ducks, it will be difficult to identify situations where they are sufficiently isolated to warrant a special season.

d. Closed Season

Public Hearing Comments: John Grandy, representing the Humane Society, and Wayne Pacelle, representing the Fund for Animals, called for a closure of waterfowl hunting. Jim Phillips, a writer and duck

hunter, recommended closing the duck season until attaining a fall flight of 100 million ducks, an objective level in the "North American Waterfowl Management Plan".

Written Comments: An individual from Wisconsin and an individual from Texas preferred closure for the 1990–91 duck season; while another individual from Texas requested a closed season only on those ducks that are in trouble, but increasing the limits on the ducks that are showing an increase in numbers. The Fund for Animals requested a closure for all duck seasons; but, if this was not possible, they requested a closure for pintails, blue-winged teal, and black ducks. The North American Wildlife Foundation requested a closed season on pintails in all flyways, except the Pacific Flyway, and further requested a continental closure on canvasback.

Response: The Service considered the option of a nationwide closure on duck hunting in the Environmental Assessment, *Waterfowl Hunting Regulations for 1990.* Due to any compensatory mortality that might occur and the extremely small proportion of the total mortality that occurred from hunting in 1988 and 1989, and will likely occur from hunting in 1990, very few additional ducks would be added to the 1991 breeding population with a closed season.

A closed season would eliminate most of the revenue that is currently received from license and stamp sales, as well as eliminate private-landowner incentives to maintain habitat. The Service will continue the restrictive regulations of recent years. As further protection, the Service may institute specific closures if the need arises.

e. Bag Limits

(1) *Conventional System—Public Hearing Comments:* Bob Creeden, representing several waterfowl organizations in the mid-Atlantic and northeast portions of the Atlantic Flyway, supported the recommendation by the Service and the Atlantic Flyway Council for a 3-duck daily bag limit. Bill Montoya, representing the Central Flyway Council, asked the Service to investigate the return to the bag limit of an additional male mallard that was removed in 1987. Joseph Rowan, representing Ducks Unlimited, supported the restrictions on blue-winged teal, lesser scaup, and pintails.

Written Comments: The Atlantic Flyway Council and the Upper Region Regulations Committee of the Mississippi Flyway Council recommended no change in bag limits. The Lower Region Regulations Committee of the Mississippi Flyway Council recommended no change in total ducks but recommended limiting the bag to include no more than one hen mallard or one black duck. The Central Flyway Council recommended no change in total ducks but recommended lifting the 2-drake mallard restriction in that flyway and allowing one canvasback in the bag limit. The Pacific Flyway Council also recommended no change in total ducks, but requested an additional pintail drake and an additional canvasback in the bag limit. The California Department of Fish and Game requested increasing the pintail daily bag limit to two birds, only one of which may be a female. The Florida Game and Fresh Water Fish Commission and a local organization from New York supported the proposed bag limit. One individual from New York supported the proposed bag limits and remarked that if adjustments were made he preferred additional days of hunting rather than an additional bird in the bag limit. An individual from California recommended a 5-bird bag limit with the only restriction being a limit of one pintail, while an individual from Oregon recommended that two pintail drakes be allowed. An individual from Texas requested a closed season on only those ducks that are in trouble, but increasing the limits on the ducks that are showing an increase in numbers. An individual from Wisconsin recommended that the bag limit be determined by the production anticipated.

Response: The Service believes that continuing last year's restrictive bag limits is appropriate given the current status of ducks. It is prudent to provide the current level of protection pending improvements in habitat conditions on the breeding grounds and corresponding increases in population levels. In regard to the proposal to limit the bag of hen mallards and black ducks to one bird in combination, the Service notes that States have the option to select regulations that are more restrictive than the Service frameworks.

(2) *Point System—Public Hearing Comments:* John M. Anderson, representing the National Audubon Society, asked for continued use of the point system as an alternative option, saying that it is a viable harvest-management option that encourages hunters to identify ducks, but he did recognize that the point system has an inherent reordering problem. Vernon Bevill, representing the Mississippi Flyway Council, supported the point system as a viable bag-limit option and recommended the establishment of a joint State-Federal technical task force to review past studies and other pertinent information. Bob Jungman, representing the Wetland Habitat Alliance of Texas, suggested consideration of a point system that would allow up to five ducks, with point values that differ from those previously recommended.

Written Comments: There was no specific recommendation from the Upper and Lower Region Regulations Committees of the Mississippi Flyway Council although they expect that the Service will continue to offer the same point values as were offered in 1989–90. The Central Flyway Council recommended a point system that would be more liberal than the conventional bag limit and more liberal than the point system of 1989–90. Their recommendation removed mergansers from the point system; added a canvasback as a 100-point bird; changed the male mallard from a 50-point bird to a 35-point bird; and changed gadwall, northern shovelers, and green-winged teal from 35-point birds to 25-point birds. An individual from Wisconsin and another from Louisiana recommended discontinuing the point system as an option.

Response: Consistent with the Service's long-term strategy for the point system, the Service is offering the point system with point values that are at least as restrictive as the conventional bag limit in terms of total ducks and species/sex restrictions. Regarding further review of the point system, the review just completed by the Service included input from States and Flyway Councils in terms of technical data, review of report drafts, etc. Unless substantive new information becomes available, the Service considers the current review adequate.

3. American Black Ducks

Public Hearing Comments: John Grandy, representing the Humane Society, suggested that the Service delay black duck seasons for 1–2 weeks and use a mid-week opening to give local ducks more protection. Bob Creeden, representing several waterfowl organizations in the mid-Atlantic and northeast portions of the Atlantic Flyway, believed efforts to reduce the black duck harvest over the last 6 years has saved thousands of birds.

Written Comments: One local organization from New York requested that the black duck limit remain at one bird per day even though they felt the population was increasing.

Response: Efforts to maintain a reduced level of harvest on black ducks continue in the Atlantic and Mississippi

Flyways. The Service appreciates the support for these restrictions.

7. Extra Teal Option

Written Comments: Two local organizations from Massachusetts and two local organizations from New York recommended reinstatement of these bonus bag limits and a local organization from New Jersey recommended that the bonus be reinitiated during the last part of the early split-season segment. These local organizations believe that reinstatement is appropriate because green-winged teal are currently numerous.

Response: Consistent with the Service's long-term strategy for bonus bag limits, the Service is discontinuing the option for extra teal in the bag. Bonus bag limits have the potential to increase harvest of all species, not just the bonus species.

9. Special Scaup Season

Written Comments: A local organization from New York requested reinstatement of the special season, two local organizations from Massachusetts requested reinstatement when population levels warrant, and an individual from New York requested reinstatement claiming that there was no justification to discontinue the special season. One individual from Wisconsin opposed reinstatement of the special season due to the shortage of scaup.

Response: Consistent with the Service's long-term strategy for special seasons, the Service is continuing the suspension of the special scaup season. The seasons may be reinstated when the status of the scaup population warrants additional harvest pressure and the season can be properly evaluated.

10. Extra Scaup Option

Written Comments: A local organization from New York requested reinstatement of the bonus option, while two local organizations from Massachusetts requested reinstatement when population levels warrant. One individual from Wisconsin opposed reinstatement of these special seasons due to the shortage of scaup.

Response: Consistent with the Service's long-term strategy for bonus bag limits, the Service is discontinuing the option for extra scaup in the bag. Bonus bag limits have the potential to increase the harvest of all species, not just the bonus species.

11. Mergansers

Public Hearing Comments: John Grandy, representing the Humane Society, expressed his opinion that seasons on mergansers were "special" seasons and of little purpose other than for target practice, implying that they should be included within the conventional duck limit.

Written Comments: The Central Flyway Council recommended that bag limits for mergansers be 5, only one of which may be a hooded merganser. Two local organizations from Massachusetts requested that the merganser seasons be concurrent with the 107-day sea duck seasons, and asked for more study on the effects of merganser depredation on commercial fisheries and spawning areas for marine life.

Response: The frameworks offer separate merganser limits in the three eastern flyways, only in States that select the conventional bag-limit option. The Service does not believe that Flywaywide increases in merganser limits or season length are effective ways to address the localized depredation on fisheries. Concerning comments that mergansers should be included in the regular duck bag limit, the Service has no information to suggest that the status of merganser populations warrants additional harvest restrictions at this time.

12. Canvasback and Redhead Ducks

Written Comments: The Central Flyway Council recommended allowing a canvasback in both conventional and point-system bag limits. The Pacific Flyway Council recommended increasing the bag limit from one to two canvasbacks for the Pacific Flyway, returning to the aggregate bag limit of canvasbacks and redheads prior to the closed season in 1988. The Pacific Flyway Council further recommended no restrictions within the bag limit for Alaska, as was the case prior to the closed season in 1988. The Council cited the high population level for the western population of canvasbacks. A local organization from New York requested a 1-bird limit on canvasbacks to begin the opening of the second segment of the split season along the Hudson River Valley. The North American Wildlife Foundation requested a continental closure on canvasback. One individual from Wisconsin recommended that the canvasback season be closed across the United States.

Response: Following harvest guidelines in the "1983 Environmental Assessment on Canvasback Hunting", canvasbacks are managed as western and eastern populations. Thresholds below which closed seasons would be considered are 3-year average breeding populations indices (BPI) of 140,000 and 360,000, respectively. The season has been closed since 1986 in the Atlantic, Mississippi, and Central Flyways (Eastern Population). In the Pacific Flyway and Alaska (Western Population), the season was closed in 1988, but was reopened in 1989 because spring counts for the western population increased the 3-year average index above the threshold level. The average BPI for the western population increased again in 1990; therefore, the Service is continuing the season on canvasbacks in the Pacific Flyway, with daily bag limits of two canvasbacks or redheads, either singly or in the aggregate, as they were during 1975–87. However, the daily bag limit of canvasbacks for Alaska may include only two per day.

13. Duck Zones

Public Hearing Comments: Bob Jungman, representing the Wetland Habitat Alliance of Texas, suggested abolishing the moratorium on zones and splits. Bob Creeden, representing several waterfowl organizations in the mid-Atlantic and northeast portions of the Atlantic Flyway, supported the Service's proposed strategy on zones and splits, including the "Grandfather Clause." Mr. Creeden also asked the Service to consider a system that would allow additional hunting days to account for the prohibition on Sunday hunting in several States.

Written Comments: The Pacific Flyway Council recommended a zone boundary change for the Northeast Zone of California and the creation of a new zone in Idaho. The Idaho Fish and Game Department also supported the creation of the new zone in Idaho. The California Waterfowl Association supported the Pacific Flyway Council recommendation to modify the boundaries of the northeast zone in California. Two local organizations from Massachusetts, one local organization and four individuals from New Jersey, and one local organization and two individuals from New York supported the proposal to maintain zoning as an option. They cite different migratory patterns, varied ecological conditions, and different weather patterns within States. They further state that hunters have developed traditions associated with different zones and believe these are effective management tools. The Oregon Waterfowl and Wetlands Association and an individual from Oregon recommended north and south zones for that State. The Wisconsin Department of Natural Resources asked that if a zone boundary change is permitted in California, would the Service allow boundary changes in other States in other flyways.

The Delaware Department of Natural Resources recommended continuing the option of 3-way splits for those States that are currently either zoning or splitting their duck season into three segments. Two local organizations from Massachusetts, one local organization and two individuals from New Jersey, and one local organization and an individual from New York, support the proposal to continue split seasons. An individual from Nevada recommended limiting hunting to Saturdays, Sundays, Wednesdays, and Holidays; while a United Sates Senator from Maryland, two local organizations from Massachusetts, and one local organization from New York recommended allowing compensatory days for States that do not allow hunting on Sundays. One individual from Wisconsin opposed the proposal to allow split seasons.

Response: Consistent with the Service's long-term strategy for zones and splits, the Service is continuing the moratorium in 1990, but will hold the first "open season" for changes in 1991. The guidelines for zoning and splitting are included earlier in this document under the section *Special Assessments.* These guidelines include a "Grandfather Clause".

On several occasions the Service has addressed the issue of make-up days for local bans on Sunday hunting. Rest days that result because of no Sunday hunting do not necessarily result in reduced harvest of waterfowl. In fact, rest days are a well recognized harvest management technique and many private and public hunting areas institute rest days to hold birds and prolong and increase their harvest opportunities. Under these circumstances, it does not appear that States banning Sunday hunting are at a disadvantage in terms of waterfowl harvest. The loss of hunting days due to State restrictions is a matter for resolution within the respective States. The Service does not offer compensatory days.

14. Frameworks for Geese and Brant in the Conterminous United States—Outside Dates, Season Length and Bag Limits

a. General

Public Hearing Comments: John M. Anderson, representing the National Audubon Society, said that goose hunting regulations were generally appropriate, but that some fine-tuning may be necessary. Bill Montoya, representing the Central Flyway Council, expressed appreciation for Service consideration given to changes in frameworks for goose seasons and limits.

Written Comments: An individual from Louisiana requested a 60-day season for all flyways, with bag limits to include five light geese, two whitefronts, and two Canada geese.

Response: The Service appreciates the general support for the goose hunting regulations. The Service believes it is appropriate to manage geese by individual populations where this is possible.

b. Atlantic Flyway

(1) *Canada Geese—Written Comments:* The Atlantic Flyway Council recommended extending the closing framework date in the Central Zone of Massachusetts from January 20 to January 31.

Response: The 1990–91 frameworks provide for the extended closing framework date of January 31 in the Central Zone of Massachusetts.

Written Comments: The Atlantic Flyway Council recommended increasing the quota for the Georgia special season from 1,150 to 2,280 Canada geese and allowing the 8-day season to be split into two equal segments.

Response: The 1990–91 frameworks provide for the increase in the quota and the ability to split the season into two equal segments.

Written Comments: The Atlantic Flyway Council recommended that the frameworks for the 4 counties in northwest Pennsylvania remain at 70 days with a bag limit of 2 Canada geese. The Pennsylvania Game Commission remarked that the Service's proposal to decrease the bag limit from two to one Canada goose in Erie, Mercer, Crawford, and Butler Counties was difficult to accept and explain, and requested as an alternative that the Service grant the option of 2 geese per day for 50 days in the 4 counties; but that the Pymatuning Waterfowl Management Area remain at 70 days with bag limits of 1 goose per day. Two individuals from Pennsylvania opposed the Service's proposal to restrict the bag limit and instead requested an increase in the bag limit to three Canada geese.

Response: The Service believes that it is necessary to reduce the harvest of Tennessee Valley Population Canada geese (TVP), in light of the reduced breeding population and lower than expected productivity during 1990. As a result, bag limits or season lengths have been reduced in areas receiving TVP geese in both the Atlantic and Mississippi Flyways. Observations of neck collared geese and band recovery data suggest that northwestern Pennsylvania, particularly the Pymatuning area, is a major harvest area for TVP geese. In Erie, Mercer, Crawford, and Butler Counties, the season length is being reduced from 70 to 50 days, except that in the Pymatuning area the bag limit will be reduced from two to one bird daily, while the season length will remain at 70 days.

Note: Separate frameworks for the Pymatuning area and the remainder of the four counties are a temporary solution for 1990. The States and the Service will provide a review of data regarding population segments prior to setting regulations for the 1991–92 season in order to delineate areas and times in which TVP geese are present. The Service encourages both the Atlantic and Mississippi Flyway Councils to complete and implement a TVP management plan, now in preparation, which can be used to guide future harvest management strategies.

Written Comments: A local organization from New York requested a bag limit of four Canada geese for 120 days.

Response: The Service believes a 4-bird daily bag limit on Atlantic population of Canada geese for 120 days is too liberal and not consistent with harvest guidelines outlined in a management plan endorsed by the Atlantic Flyway Council. In addition, the Migratory Bird Treaty limits the number of days that any species or group of species may be hunted in any geographical area to 107 days.

(2) White Geese

Written Comments: The Atlantic Flyway Council recommended extending the white-goose closing framework from January 31 to February 10 and increasing the season length from 90 to 107 days.

Response: The 1990–91 frameworks provide for the increase in season length to 107 days and the extended closing framework date of February 10.

Written Comments: A local organization from New York remarked that the white goose limits are sufficient.

Response: The Service appreciates the support for the white goose frameworks.

(3) Brant

Written Comments: The Atlantic Flyway Council recommended extending the closing framework date for brant from January 20 to January 31 and increasing the bag limit from 2 to 4 brant.

Response: The Service believes that post-season population indices for Atlantic brant are only slightly higher than objective levels and that an increase in daily bag limits and an

extension in the closing date frameworks are not warranted at this time. Presently, harvest rates exceed 20 percent, which approximates estimated annual productivity rates. Numbers of Atlantic brant remain relatively low compared to other species of hunted waterfowl and in the past have fluctuated widely due to low productivity and habitat constraints.

Written Comments: A local organization from New York remarked that the brant limits are sufficient.

Response: The Service appreciates the support for the brant frameworks.

c. Mississippi Flyway

(1) *Canada Geese—Public Hearing Comments:* John M. Anderson, representing the National Audubon Society, endorsed the special 9-day season on Tall Grass Prairie Canada geese in Louisiana.

Written Comments: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended a 9-day special Canada goose season for Louisiana, which was also supported by the Arkansas Game and Fish Commission.

Response: The 1990–91 frameworks provide for an experimental 9-day Canada goose season in a portion of Louisiana.

Public Hearing Comments: Larry Marcum, representing the Tennessee Wildlife Resources Agency, commented about proposed restrictions on the harvest of Tennessee Valley Population (TVP) Canada geese this year. He stated that information indicating a need for restriction became available only recently, and that Tennessee felt the proposal to limit the Canada goose bag to one bird was too restrictive. He said that the State's first recommendation was for no change in regulations from last year, but if a change was required, they recommended an option of either 60 days with 2 geese daily or 70 days with 1 goose daily. Vernon Bevill, representing the Mississippi Flyway Council, recommended that the Service work more closely with the Canadian Wildlife Service and the Province of Ontario to achieve greater consistency in harvest management actions for the Tennessee Valley Population of Canada geese throughout its range.

Written Comments: The Upper and Lower Region Regulations Committees of the Mississippi Flyway Council recommended several liberalizations for the Mississippi Valley and Eastern Prairie Populations and several restrictions for the Tennessee Valley Population.

Response: Based on a combination of substantial increases in Canada goose harvests throughout the Mississippi Flyway in 1989 and information from the Tennessee Valley Population (TVP) breeding grounds indicating low production in 1990, the Upper and Lower Region Regulations Committees of the Mississippi Flyway Council recommended harvest restrictions in most, but not all, TVP harvest areas in the flyway. The Service agrees with the recommended changes except that the restrictions recommended for the TVP do not include all TVP harvest areas. The Service feels that if restrictions are warranted, they should apply throughout the TVP range. Accordingly, the frameworks herein include reductions in season length from 70 to 50 days in Alabama and the principal TVP harvest area in Tennessee.

Regarding the request from Tennessee subsequent to the public hearing indicating a preference for season-length rather than bag-limit restriction, the Service feels that a restriction of only 10 days in season length is not consistent with the restrictions recommended by the Council for other TVP harvest areas.

Written Comments: The Arkansas Game and Fish Commission requested a boundary change for the special Canada goose area.

Response: The Federal frameworks in past years have not restricted the area where Canada geese may be hunted in Arkansas. The State has identified and modified the hunting areas as they deemed appropriate for their Canada goose management objectives. However, the Service appreciates notification of the area change for 1990–91.

Written Comments: An individual from California recommended increasing the quota for the Swan Lake Zone of Missouri.

Response: The frameworks herein include an increase in season length from 40 to 50 days in the Swan Lake Zone, based on improvement in the status of the Eastern Prairie Population (EPP) of Canada geese, a portion of which winters in the Swan Lake Zone. However, because of recent changes in the distribution of EPP Canada geese, the Service agrees with the recommendation of the Mississippi Flyway Council's Upper Region Regulations Committee to retain the same quota as in 1989.

Written Comments: A local organization from Minnesota requested an increased quota in the Lac qui Parle goose zone.

Response: The Service feels that the quota proposed for the Lac qui Parle goose zone, which was based on recommendations from the Upper Region Regulations Committee of the Mississippi Flyway Council, is consistent with the status of and management objectives for the Eastern Prairie Population of Canada geese.

(2) Light Geese

Written Comments: The Lower Region Regulations Committee of the Mississippi Flyway Council recommended extending the framework closing date for light geese from January 20 to February 14.

Response: The 1990–91 frameworks provide for the extended closing framework date of February 14.

d. Central Flyway

(1) *Dark Geese—Public Hearing Comment:* Bob Jungman, representing the Wetland Habitat Alliance of Texas, recommended 100 days with a bag of 7 light geese, 2 white-fronted geese, and 1 Canada goose.

Written Comments: The Central Flyway Council recommended extending the framework closing date to January 31 for western-tier dark geese. The Council also recommended increasing the season length for western-tier dark geese from 95 to 107 days, increasing the bag limit by 1, and discontinuing the aggregate light/dark goose bag limit in Colorado, Wyoming, and west of U.S. 81 in Texas. As an alternative, the Council recommended increasing the season length to 100 days and increasing the bag limit by 1, while retaining the aggregate light/dark goose bag limit in the 3 States.

Response: The 1990–91 frameworks provide for increasing the season length to 100 days and increasing the bag limit by 1, while retaining the aggregate light/dark goose bag limit in the 3 States. The Service is not extending the framework closing date at this time.

In recent years, the winter counts of Short Grass Prairie Population of Canada geese, primarily in western-tier States, have been increasing. However, there is evidence to suggest that this increase may in part be a result of distributional changes of Canada geese from eastern-tier States (i.e., Tall Grass Prairie Population of Canada geese). Until the status of both populations is better determined, the Service remains concerned about additional liberalizations beyond those made at this time.

(2) *Light Geese—Written comments:* The Central Flyway Council recommended extending the western-tier light goose framework closing date from a floating date of the Sunday nearest February 15 to a fixed date of February 28.

Response: The Service believes that initiating harvest opportunities on

northward migrating geese is inappropriate and therefore is hesitant to extend frameworks into the latter part of February.

Public Hearing Comments: Bob Jungman, representing the Wetland Habitat Alliance of Texas, recommended 100 days with a bag of 7 light geese, 2 white-fronted geese, and 1 Canada goose.

Written Comments: The Central Flyway Council also recommended increasing the season length for western-tier light geese from 95 days to 107 days, increasing the bag limit to 5 for all areas, and discontinuing the aggregate light/dark goose bag limit in 3 States. As an alternative, they recommended increasing the season length to 100 days and increasing the bag limit to 5 for all areas, but retaining the aggregate light/dark goose bag limit in 3 States.

Response: The 1990–91 frameworks provide for increasing the season length to 100 days and increasing the bag limit to 5 for all areas, but retaining the aggregate light/dark goose bag limit in 3 States.

Written Comments: The Central Flyway Council recommended that States in the eastern tier be given the option of either a 100–day season with a 5-light-goose daily bag limit or a 86–day season with a 7-light-goose daily bag limit.

Response: The 1990–91 frameworks provide for this option in the eastern tier of the Central Flyway.

e. Pacific Flyway

(1) *Dark Geese—Service Comment:* The Service continues to support the special seasons on Canada geese in western Oregon and southwestern Washington in an effort to redirect harvest away from those populations in short supply and toward those that are abundant. However, limited evidence suggests that the reported take of dusky Canada geese, for which there is a quota, and cackling Canada geese, for which there is no open season, is less than actually occurring. The Service, herein, requires Washington and Oregon to conduct Service-approved investigations that will provide quantitative assessments as to the degree of compliance with regulations pertaining to the taking and reporting of Canada geese in these special hunts.

Written Comments: The Pacific Flyway Council recommended increasing the season length for the Rocky Mountain Population of Canada geese from 88 to 93 days, while retaining the 93-day season for the Pacific Population of Canada geese.

Response: The 1990–91 frameworks provide for season lengths of 93 days for both the Rocky Mountain Population and the Pacific Population of Canada geese.

Written Comments: The Pacific Flyway Council and the California Fish and Game Department recommended modifying the boundaries of the goose closure zones in California to accommodate a limited season on western Canada geese in the southeast portion of the Sacramento Valley Area and a realignment of the boundaries in the San Joaquin Valley Area.

Response: The 1990–91 frameworks provide for such modification of the goose closure zones in California.

Written Comments: The Pacific Flyway Council recommended a zone boundary change for the Northeast Zone of California.

Response: The Service denied this change for 1990 because this zone is used in duck harvest management. The long-term strategy for duck zones includes a moratorium on changing zone boundaries during 1990–91. There will be an "open season" for changes in 1991–92 and the Service will entertain requests for minor boundary changes at that time.

15. Tundra Swans

Public Hearing Comments: John M. Anderson, representing the National Audubon Society, noted that tundra swan populations are nearing carrying capacity levels on breeding areas and current harvest levels appear appropriate. Wayne Pacelle, representing the Fund for Animals, commented that swan seasons catered only to a small special-interest group.

Written Comments: An individual from Alaska and another from Ontario, Canada, supported the swan seasons, but recommended increased fees for permits and using the collected funds for increased research and habitat efforts. They further recommend that tissue samples be collected by permittees from each swan harvested for analysis of diet, disease, parasites, physical condition, and contaminants. One individual from Pennsylvania opposed swan hunting in that State.

Response: Tundra swan populations currently exceed objective levels. Management plans for both the eastern and western populations, including harvest strategies, have been developed to give adequate protection to the species. The Service notes the concern by some persons regarding tundra swan hunting but finds no biological reason to prohibit swan hunting. Therefore, the Service is continuing tundra swan hunts in certain identified states. The Service does not offer a swan season in Pennsylvania.

In regard to increased research, the Service supports research to improve existing databases and to find answers to important questions which are essential for improving our management capabilities and maintaining desirable population levels.

17. Coots

Public Hearing Comments: John Grandy, representing the Humane Society, expressed his opinion that seasons on coots were "special" seasons and of little purpose other than for target practice.

Written Comments: The Pacific Flyway Council recommended that the frameworks be modified to allow hunting of coots, moorhens, and gallinules during the splits between duck seasons. Currently the coot, moorhen, and gallinule season must be concurrent with the duck season. An individual from Louisiana requested that the coot bag limits be reduced to eight birds per day.

Response: The frameworks for 1990–91 allow the hunting of coots, moorhens, and gallinules between the first opening date of the duck season and the last closing date of the duck season, but the season length may not exceed 93 days.

18. Common Moorhens and Purple Gallinules

Written Comments: The Pacific Flyway Council recommended that the frameworks be modified to allow hunting of coots, moorhens, and gallinules during the splits between duck seasons. Currently the coot, moorhen, and gallinule season must be concurrent with the duck season.

Response: The frameworks for 1990–91 allow the hunting of coots, moorhens, and gallinules between the first opening date of the duck season and the last closing date of the duck season, but the season length may not exceed 93 days.

30. Other

Cormorants

Written Comments: Two local organizations from Massachusetts recommended initiating hunting seasons for cormorants to control depredation on fishery stocks.

Response: The cormorant is included among those birds covered under the provisions of the Migratory Bird Treaty and is not designated as a game bird. Therefore, hunting seasons may not be established for this species. Provisions do exist, however, for the control of depredating migratory birds. The provisions and requirements for such

control are contained in the Code of Federal Regulations Part 21, Subpart D.

Nontoxic Shot Regulations

In the August 16, 1990, **Federal Register** (55 FR 33626), the Service published a final rule describing zones in which lead shot is prohibited for hunting waterfowl, coots and certain other species in the 1990–91 season. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with EPA on June 9, 1988. Notice of Availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). However, this programmatic document does not prescribe year-specific regulations; those are developed annually. The annual regulations and options were considered in the Environmental Assessment, Waterfowl Hunting Regulations for 1990. Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

On July 12, 1990, the Division of Habitat Conservation concluded that the proposed action is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats. On July 23, 1990, the Office of Migratory Bird Management requested reinitiation to further consider the effects of the increasing population of Aleutian Canada geese and the variable nature of incidental take of this species. On August 2, 1990, the Division of Habitat Conservation issued another biological opinion that addressed this issue. Hunting regulations are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species and their habitats. The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for inspection in the Division of Habitat Conservation and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634, Arlington Square, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 14, 1990 (55 FR 9618), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and revising the Final Regulatory Impact Analysis. In the August 14, 1990, **Federal Register** (55 FR 33264), the Service published a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 634-Arlington Square, Department of the Interior, Washington, DC 20240. These proposed regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 14, 1990 (55 FR 33264).

Authorship

The primary author of this proposed rule is Robert J. Blohm, Office of Migratory Bird Management, working under the direction of Thomas J. Dwyer, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late-season rulemaking was published on August 17, 1990, the Service established what it believed was the longest period possible for public comment. In doing this, the Service recognized that at the close of the comment period time would be of the essence. That is, if there was a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 701–711), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of the season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 1990–91 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects of 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1990–91 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 701–711), and the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712).

Dated: September 10, 1990.

Jay L. Gerst,

Acting Director, U.S. Fish and Wildlife Service.

Final Regulations Frameworks for 1990–91 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the delegated authorities, the Director has approved frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots. Frameworks are summarized below.

General

Zoning: Seasons in existing zones may be selected independently of other zones and the remainder of the State. Zones are described for ducks and coots and for geese and brant in a later portion of this document.

Split Season: Unless otherwise specified, States in all flyways may split their season for ducks, geese, or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split the seasons into three segments. States in the Atlantic, Central, and Pacific Flyways, and identified States in the Mississippi Flyway, may split seasons into 2 segments in conjunction with zoning. Exceptions are noted in appropriate sections.

Shooting and Hawking Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill cranes, common moorhens and purple gallinules, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by flyway.

Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Ducks, Coots, and Mergansers

Hunting Season: Not more than 30 days.

Outside Dates: Between October 6, 1990, and January 6, 1991.

Duck Limits: The daily bag limit is 3 and may include no more than 1 hen mallard, 2 wood ducks, 2 redheads, 1 black duck, 1 mottled duck, 1 pintail, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Canvasbacks: The season on canvasbacks is closed.

Harlequin Ducks: The season on harlequin ducks is closed.

Sea Ducks: In all areas outside of special sea duck areas, sea ducks are included in the regular duck season daily bag and possession limits. However, during the regular duck season within the special sea duck areas, the sea duck bag and possession limits may be in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limits is twice the daily bag limit.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Canada Geese

Season Lengths, Outside Dates, and Limits: Seasons in States, and independently in described goose management units within States, may be as follows (unless otherwise specified, possession limits are twice the daily bag limit):

Connecticut: North Zone—90 days between October 1 and January 31 with a bag limit of 3.

South Zone—a 90-day experimental season between October 1 and February 5 with a bag limit of 3 through January 14 and 5 thereafter.

Delaware: 60 days between October 31 and January 20 with a bag limit of 2.

Florida: Closed season.

Georgia: In specific areas, an 8-day experimental season may be split into 2 segments of 4 days each between November 15 and February 5 with a limit of 1 Canada goose per season.

Maine: 70 days between October 1 and January 20 with a bag limit of 3.

Maryland: 60 days between October 31 and January 20 with a bag limit of 2.

Massachusetts: 70 days between October 1 and January 20 in the Berkshire and Coastal Zones, and between October 1 and January 31 in the Central Zone, with a by limit of 3. In addition, a special 16-day season for resident Canada geese may be held in the Coastal Zone during January 21 to February 5 with a daily bag limit of 5.

New Hampshire: 70 days between October 1 and January 20 with a bag limit of 3.

New Jersey: 90 days between October 1 and January 31 with a bag limit of 1 through October 15 and 3 thereafter.

New York: 90 days between October 1 and January 31 with a bag limit of 1 through October 15 and 3 thereafter.

North Carolina: East of I–95—11 days between January 20 and January 31 with a bag limit of 1.

West of I–95—Closed.

Pennsylvania: Southeast Zone—90 days between October 1 and January 31 with a bag limit of 1 through October 15 and 3 thereafter.

Erie, Mercer, Butler, and Crawford Counties—50 days between October 1 and January 20 with a bag limit of 2, except that in the Pymatuning Waterfowl Mangement Area the season remains at 70 days and the bag limit will be 1 Canada goose.

Remainder of State—70 days between October 1 and January 20 with a bag limit of 3.

Rhode Island: 90 days between October 1 and January 31 with a bag limit of 3.

South Carolina: 11 days between January 20 and January 31 with a bag limit of 1.

Vermont: 70 days between October 1 and January 20 with a bag limit of 3.

Virginia:

Back Bay—11 days between January 20 and January 31 with a bag limit of 1.

Remainder—60 days between October 31 and January 20 with a bag limit of 2.

West Virinia: 70 days between October 1 and January 20 with a bag limit of 3.

White Geese

Definition: For purpose of hunting regulations listed below, the collective term "white" geese includes lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1, 1990, and February 10, 1991, with daily bag and possession limits of 5 and 10, respectively.

Atlantic Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between October 1, 1990, and January 20, 1991, with daily bag an possession limits of 2 and 4, respectively.

Mississippi Flyway

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Ducks, Coots, and Mergansers

Hunting Seasons: Not more than 30 days.

Outside Dates: Between October 6, 1990, and January 6, 1991.

Duck Limits: The daily bag limit is 3, and may include no more than 2 mallards (no more than 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, and 1 redhead. The possession limit is twice the daily bag limit.

As an alternative to conventional bag limits for ducks and mergansers, a point system for bag and possession limits may be selected. Point values are as follows:

100 points—female mallard, pintail, black duck, redhead, hooded merganser

50 points—male mallard, wood duck

35 points—all other ducks and mergansers.

Under the point system, the daily bag limit is reached when the point value of the last bird taken, added to the sum of point values of all other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Canvasbacks: The season on canvasbacks is closed.

Merganser Limits: Under the conventional bag-limit option only, a daily bag limit of 5 mergansers may be taken, only 1 of which may be a hooded merganser. The possession limit is twice the daily bag limit.

Coot Limits: The daily bag and possession limits are 15 and 30, respectively.

Zoning: Alabama, Illinois, Indiana, Iowa, Louisiana, Michigan, Missouri, Ohio, Tennessee, and *Wisconsin* may select hunting seasons for ducks, coots and mergansers by zones. The season may be split into 2 segments in each zone in *Indiana, Iowa, Louisiana, Michigan, Missouri, Ohio,* and *Tennessee* and in the south zones of *Alabama* and *Wisconsin.*

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits and shooting hours shall be the same as those selected in the adjacent portion of Pennsylvania.

Lower St. Francis River Area, Missouri: The waterfowl seasons, limits, and shooting hours shall be the same as those selected by Arkansas.

Geese

Definition: For the purpose of hunting regulations listed below, the collective terms "dark" and "light" geese include the following species:

Dark geese—Canada geese, white-fronted geese, and brant.

Light geese—lesser snow (including blue) geese, greater snow geese, and Ross' geese.

Season Lengths, Outside Dates, and Limits: States may select seasons for geese not to exceed 70 days for dark geese between the Saturday nearest October 1 (September 29, 1990) and the Sunday nearest January 20 (January 20, 1991), *except* in Kentucky, Arkansas, Tennessee, Mississippi, and Alabama where the closing date is January 31, and 80 days for light geese between the Saturday nearest October 1 (September 29, 1990), and February 14, 1991. The daily bag limit is 7 geese, to include no more than 3 Canada and 2 white-fronted geese. The possession limit is twice the daily bag limit. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State

Alabama: Seasons for geese may be selected by zones established for duck hunting seasons. The season for Canada geese may extend for 50 days. Canada goose limits are 2 daily and 4 in possession.

Arkansas: The season for Canada geese may extend for 23 days. Limits are 1 Canada goose daily and 2 in possession.

Illinois: The total harvest of Canada geese in the State will be limited to 142,200 birds. In the:

(a) *Southern Illinois Quota Zone*—The season for Canada geese may continue to January 24 and will close after 70 days or when 71,100 birds have been harvested, whichever occurs first. Limits are 3 Canada geese daily and 10 in possession. If any of the following conditions exist after Dec. 20, 1990, the State, after consultation with the Service, will close the season by emergency order with 48 hours notice:

1. 10 consecutive days of snow cover, 3 inches or more in depth.

2. 10 consecutive days of daily high temperatures less than 20 degrees F.

3. Average body weights of adult female geese less than *3,200* grams as measured from a weekly sample of a minimum of 50 geese.

4. Starvation or a major disease outbreak resulting in observed mortality exceeding 500 birds per day for 10 consecutive days, or a total mortality exceeding 5,000 birds in 10 days, or a total mortality exceeding 10,000 birds.

(b) *Rend Lake Quota Zone*—The season for Canada geese will close after 70 days or when 21,300 birds have been harvested, whichever occurs first. Limits are 3 Canada geese daily and 10 in possession.

(c) *Tri-County Zone*—The season for Canada geese may not exceed 50 days. Limits are 2 Canada geese daily and 10 in possession.

(d) *Remainder of State*—Seasons for Canada geese up to 70 days may be selected by zones established for duck hunting seasons. Limits are 3 Canada geese daily and 10 in possession.

Indiana: The total harvest of Canada geese in the State will be limited to 54,550 birds. In:

(a) *Posey County*—The season for Canada geese will close after 70 days or when 15,900 birds have been harvested, whichever occurs first. Limits are 3 Canada geese daily and 6 in possession. The season for all geese may extend to January 31, 1991.

(b) *Remainder of the State*—The season for Canada geese may extend for 70 days. Limits are 2 Canada geese daily and 4 in possession.

Iowa: The season may extend for 70 days. Limits are 2 Canada geese daily and 4 in possession. The season for geese in the Southwest Goods Zone may be held at a different time than the season in the remainder of the State.

Kentucky: In the:

(a) *Western Zone*—The season for Canada geese may extend for 70 days, and the harvest will be limited to 43,200 birds. Of the 43,200-bird quota, 28,000 birds will be allocated to the Ballard Reporting Area and 8,200 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 70-day season, the season in that reporting area will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 70 days. The season in Fulton County may extend to February 15, 1991. Limits are 3 Canada geese daily and 6 in possession.

(b) *Remainder of the State*—The season may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession.

Louisiana: Louisiana may hold 80-day seasons on light geese and 70-day seasons on white-fronted geese and brant between the Saturday nearest October 1 (September 29, 1990), and February 14, 1991, by zones established for duck hunting seasons. The daily bag limit is 7 geese, to include no more than 2 white-fronted geese, except as noted below. In the Southwest Zone, an experimental 9-day season for Canada geese may be held during January 23–31, 1991. During the experimental season, the daily bag limit for Canada and white-fronted geese in the Southwest Zone is 2, no more than 1 of which may be a Canada goose. In all seasons, the possession limit is twice the daily bag limit. Hunters participating in the experimental Canada goose season must possess a special permit issued by the State.

Michigan: The total harvest of Canada geese in the State will be limited to 140,000 birds. In the:

(a) *North Zone:*

(1) *West of Forest Highway 13*—The framework opening date for all geese is September 22 and the season for Canada geese may extend for 70 days, except in the Superior Counties Goose Management Unit (GMU), where the season will close after 70 days or when 25,000 birds have been harvested, whichever occurs first. Limits are 3 Canada geese daily and 6 in possession.

(2) *Remainder of North Zone*—The framework opening date for all geese is

September 26 and the season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

(b) *Middle Zone*—The season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

(c) *South Zone:*

(1) *Allegan County GMU*—The season for Canada geese will close after 55 days or when 5,500 birds have been harvested, whichever occurs first. Limits are 1 Canada goose daily and 2 in possession.

(2) *Mukegon Wastewater GMU*—The season for Canada geese will close after 50 days or when 700 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 4 in possession.

(3) *Saginaw County GMU*—The season for Canada geese will close after 50 days or when 4,500 birds have been harvested, whichever occurs first. Limits are 1 Canada goose daily and 2 in possession.

(4) *Fish Point GMU*—The season for Canada geese will close after 50 days or when 2,500 birds have been harvested, whichever occurs first. Limits are 1 Canada goose daily and 2 in possession.

(5) *Remainder of South Zone:*

(i) *West of U.S. Highway 27/127*—The season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

(ii) *East of U.S. Highway 27/127*—The season for Canada geese may extend for 40 days. Limits are 1 Canada goose daily and 2 in possession.

(d) *Southern Michigan GMU*—A late Canada goose season of up to 30 days may be held between January 5 and February 3, 1991. Limits are 2 Canada geese daily and 4 in possession.

Minnesota: In the:

(a) *West Central Goose Zone*—The season for Canada geese may extend for 40 days. In the Lac Qui Parle Goose Zone the season will close after 40 days or when a harvest of 6,000 birds has been achieved, whichever occurs first. Throughout the West-Central Zone, limits are 1 Canada goose daily and 2 in possession.

(b) *Southeast Goose Zone*—The season for Canada geese may extend for 70 consecutive days. Limits are 2 Canada geese daily and 4 in possession. In selected areas of the Metro Goose Management Block and in Olmsted County, experimental 10-day late seasons may be held during December to harvest Giant Canada geese. During these seasons, limits are 2 Canada geese daily and 4 in possession.

(c) *Remainder of the State*—The season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

Mississippi: The season for Canada geese may extend for 70 days. Limits are 3 Canada geese daily and 6 in possession.

Missouri: In the:

(a) *Swan Lake Zone*—The season for Canada geese closes after 50 days or when 10,000 birds have been harvested, whichever occurs first. Limits are 2 Canada geese daily and 4 in possession.

(b) *Southeast Zone*—A 50-day season on Canada geese may be selected, with limits of 2 Canada geese daily and 4 in possession.

(c) *Remainder of the State*—The Season for Canada geese may extend for 50 days in the respective goose hunting zones. Limits are 2 Canada geese daily and 4 in possession.

Ohio: The season may extend for 70 days with limits of 2 Canada geese daily and 4 in possession, except in the counties of Ashtabula, Trumbull, Ottawa, and that portion of Lucas County east of the Maumee River, where the limits will be 1 Canada goose daily and 2 in possession.

Tennessee: In the:

(a) *Northwest Tennessee Zone*—The season for Canada geese may extend for 70 days, and the harvest will be limited to 16,500 birds. Of the 16,500 bird quota, 11,500 birds will be allocated to the Reelfoot Quota Zone. If the quota in the Reelfoot Quota Zone is reached prior to completion of the 70-day season, the season in the quota zone will be closed. If this occurs, the season in the remainder of the Northwest Tennessee Zone may continue for an additional 7 days, not to exceed a total of 70 days. The season may extend to February 15, 1991. Limits are 3 Canada geese daily and 6 in possession.

(b) *Southwest Tennessee Zone*—The season for Canada geese may extend for 30 days, and the harvest will be limited to 1,500 birds. Limits are 2 Canada geese daily and 4 in possession.

(c) *Kentucky Lake Zone*—The season for Canada geese may extend for 50 days. Limits are 2 Canada geese daily and 4 in possession.

(d) *Remainder of the State*—The season for Canada geese may extend for 70 days. Limits are 2 Canada geese daily and 4 in possession.

Wisconsin: The framework opening date for all geese is September 22. The total harvest of Canada geese in the State will be limited to 200,000 birds. In the:

(a) *Horicon Zone*—The harvest of Canada geese is limited to 144,800 birds. The season may not exceed 77 days. All Canada geese harvested must be tagged and the total number of tags issued will be limited so that the quota of 144,800 birds is not exceeded. Limits are 2 Canada geese daily and 10 in possession.

(b) *Theresa Zone*—The harvest of Canada geese is limited to 6,000 birds. The season may not exceed 70 days. Limits are 1 Canada goose per permittee per 5-day period and 6 for the entire season.

(c) *Pine Island Zone*—The harvest of Canada geese is limited to 1,000 birds. The season may not exceed 70 days. All Canada geese harvested must be tagged. Limits are 2 Canada geese daily and 5 for the entire season.

(d) *Collins Zone*—The harvest of Canada geese is limited to 3,700 birds. The season may not exceed 70 days. All Canada geese harvested must be tagged. Limits are 2 Canada geese daily and 5 for the entire season.

(e) *Exterior Zone*—The harvest of Canada geese is limited to 40,000 birds. The season may not exceed 70 days, except as noted below. Limits are 1 Canada goose daily and 2 in possession through October 5, and 2 daily and 4 in possession thereafter, except as noted below. In the Mississippi River Subzone, the season for Canada geese may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession through October 5, and 2 daily and 4 in possession thereafter. In the Brown County Subzone, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this special season are 3 and 6 birds, respectively. In the Rock Prairie Subzone, a special late season to harvest giant Canada geese may be held between November 5 and December 9. During this late season, limits are 1 Canada goose daily and 2 in possession. The progress of the harvest in the Exterior Zone must be monitored, and the zone's season closed, if necessary, to insure that the harvest does not exceed the limit stated above.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,000 Canada geese in the Horicon Zone and 500 in the Theresa Zone may be taken under special agricultural permits.

Illinois, Indiana, Kentucky, Missouri, and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Swan Lake Zone in Missouri, and the Reelfoot Subzone in Tennessee will have been filled, the

season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Shipping restrictions: In Illinois and Missouri, and in the Kentucky counties of Ballard, Hickman, Fulton, and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall posses or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

Central Flyway

The Central Flyway includes Colorada (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judity Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Hunting Seasons: Seasons in the High Plains Mallard Management Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, may include no more than 51 days, provided that the last 12 days may start no earlier than Saturday or Monday closest to December 10 (December 8, 1990). Seasons in the Low Plains Unit may include no more than 39 days.

Outside Dates: October 6, 1990, through January 6, 1991.

Duck Limits: The daily bag limit is 3, including no more than 2 mallards, no more than 1 of which may be a female, 1 mottled duck, 1 pintail, 1 redhead, and 2 wood ducks. The possession limit is twice the daily bag limit.

As an alternative to conventional bag limits for ducks and mergansers, a point system for bag and possession limits may be selected. Point values are as follows:

100 points—female mallard, pintail, redhead, hooded merganser, mottled duck

50 points—male mallard, wood duck

35 points—All other ducks and mergansers

Under the point system, the daily bag limit is reached when the point value of the last bird taken, added to the sum of point values of all other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Canvasbacks: The season on canvasbacks is closed.

Merganser Limits: Under the conventional bag-limit option only, a daily bag limit of 5 mergansers may be taken, only 1 of which may be a hooded merganser. The possession limit is twice the daily bag.

Coot Limits: The daily bag and possession limits are 15 and 30, respectively.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant; "dark geese" includes Canada and white-fronted geese and black brant; and "light geese" includes all others.

Season Lengths, Outside Dates, and Limits: The Saturday nearest October 1 (September 29, 1990), through January 20, 1991, for dark geese and the Saturday nearest October 1 (September 29, 1990), through the Sunday nearest February 15 (February 17, 1991), *except* in New Mexico where the closing date is February 28, for light geese. Seasons in States, and independently in described goose management units within States, may be as follows (unless otherwise specified, possession limits are twice the daily bag limit):

Colorado: No more than 100 days with a daily bag limit of 5 geese that may include no more than 3 dark geese.

Kansas: For dark geese, no more than 72 days with daily bag limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 25 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

For Light Goose Unit 1, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

For Light Goose Unit 2, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

Montana: No more than 100 days with daily bag limits of 2 dark geese and 5 light geese in Sheridan County and 4 dark geese and 5 light geese in the remainder of the Central Flyway portion of the State.

Nebraska: For dark geese in the North Unit, no more than 79 days with daily bag limits of 1 Canada goose and 1 white-fronted goose until the Saturday nearest November 15 (November 17, 1990), and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the East Unit, no more than 72 days with daily bag limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 18 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the West Unit, no more than 72 days with daily bag limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 18 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For light geese, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

New Mexico: For dark geese, no more than 100 days with a daily bag limit of 3.

For light geese in the Rio Grande Valley Unit, no more than 107 days with a daily bag limit of 5 and a possession limit of 10.

For light geese in the remainder of the Central Flyway portion of New Mexico, no more than 100 days with a daily bag limit of 5.

North Dakota: For dark geese, no more than 72 days with daily bag limits of 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese until the Saturday nearest October 30 (October 27, 1990), and no more than 2 dark geese during the remainder of the season.

For light geese, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

Oklahoma: For dark geese, no more than 72 days with a daily bag limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

South Dakota: For dark geese in the Missouri River Unit, no more than 79 days with daily bag limits of 1 Canada goose and 1 white-fronted goose until the Saturday nearest November 15 (November 17, 1990), and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the remainder of the State, no more than 72 days with a daily bag limit of 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

Texas: West of U.S. 81, no more than 100 days with a daily bag limit of 5 geese, which may include no more than 3 dark geese.

For dark geese east of U.S. 81, no more than 72 days with a daily bag limit of 1 Canada goose and 1 white-fronted goose.

For light geese east of U.S. 81, no more than 100 days with a daily bag limit of 5 or no more than 86 days with a daily bag of 7.

Wyoming: No more than 100 days with a daily bag limit of 5.

Pacific Flyway

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks, Coots, and Common Moorhens

Hunting Seasons: Concurrent 59-day seasons on ducks (including mergansers), coots, and common moorhens may be selected except as subsequently noted. In the Columbia Basin Mallard Management Unit the seasons may be an additional 7 days. In those States or zones that split their season on ducks, the season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 93 days.

Outside Dates: Between October 6, 1990, and January 6, 1991.

Duck and Merganser Limits: The basic daily bag limit is 4 ducks, including no more than 3 mallards, no more than 1 of which may be a female, 1 pintail, and either 2 canvasbacks, 2 redheads or 1 of each. The possession limit is twice the daily bag limit.

Coot and Common Moorhen Limits: The daily bag and possession limits of coots and common moorhens are 25, singly or in the aggregate.

Colorado River Zone, California: Duck, coot, and common moorhen season dates shall coincide with season dates selected by Arizona.

Geese (Including Brant)

Season Lengths, Outside Dates, and Limits: Except as subsequently noted, 93-day seasons may be selected, with outside dates between the Saturday closest to October 1 (September 29, 1990), and the Sunday closest to January 20 (January 20, 1991), and the basic daily bag and possession limits are 6 geese, provided that the daily bag limit includes no more than 3 white geese (including snow, blue, and Ross') and 3 dark geese (all other species of geese including brant). In only California, Oregon, and Washington, limits for brant are 2 per day and 4 in possession and additional to dark goose limits; and the open season on brant in those States may differ from that for other geese.

Aleutian Canada Goose Closure: There will be no open season on Aleutian Canada geese. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Cackling Canada Goose Closure: There will be no open season on cackling Canada geese in California, Oregon, and Washington.

Arizona: The daily bag and possession limits for dark geese may not include more than 2 Canada geese.

California: Northeastern Zone—White-fronted geese may be taken only during the first 23 days of such season. Limits may not include more than 3 geese per day and 6 in possession, of which not more than 1 whitefronted goose or 2 Canada geese shall be in the daily bag limits and not more than 2 white-fronted geese and 4 Canada geese shall be in possession.

Colorado River Zone—The season must be the same as that selected by Arizona. The daily bag and possession limit for dark geese may not include more than 2 Canada geese.

Southern Zone—The daily bag and possession limits for dark geese may not include more than 2 Canada geese, except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e., Imperial Valley) where daily bag and possession limits for Canada geese are 1 and 2, respectively.

Balance-of-the-State Zone—A 79-day season may be selected, except that white-fronted geese may be taken during only the first 65 days of such season. Limits may not include more than 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2 provided that they are Canada geese.

Three areas in the Balance-of-the-State Zone, described as follows, are restricted in the hunting of certain geese:

(1) In the counties of *Del Norte* and *Humboldt* there will be no open season for Canada geese.

(2) In the *Sacramento Valley Area*, the season on white-fronted geese must end on or before November 30, 1990, and, except in the *Western Canada Goose Hunt Area*, there will be no open season for Canada geese. In the *Western Canada Goose Hunt Area*, the take of Canada geese other than Cackling and Aleutian Canada geese is allowed.

(3) In the *San Joaquin Valley Area*, the hunting season for Canada geese will close no later than November 23, 1990.

Brant Season: A statewide, 30-consecutive-day season on brant may be selected.

Colorado: The season must end on or before the second Sunday in January (January 13, 1991). The daily bag and possession limits for dark geese may not include more than 2 and 4 Canada geese, respectively.

Idaho: 10 Northern Counties Area—Daily bag and possession limits may not include more than 3 and 6 geese, respectively.

Southwestern Area—The season must end on or before the first Sunday in January (January 6, 1991) with bag and possession limits of 3 and 6 geese, respectively, and may not include more than 2 and 4 Canada geese, respectively.

Southeastern Area, including the *Ft. Hall-American Falls Zone*—The season must end on or before the second Sunday in January (January 13, 1991) with bag and possession limits of 3 and 6 geese, respectively, to include no more than 2 and 4 Canada geese, respectively.

Montana: East of Divide Zone—The season must end on or before the second Sunday in January (January 13, 1991).

West of Divide Zone—The season must end on or before the first Sunday in January (January 6, 1991). Daily bag and possession limits on dark geese may may not include more than 2 and 4 Canada geese, respectively.

Nevada: Clark County Zone—Daily bag and possession limits of dark geese may not include more than 2 Canada geese.

Elko County, and that portion of Ruby Lake National Wildlife Refuge in White Pine County Zone and in the *Remainder-of-the-State Zone*—Daily bag and possession limits of dark geese may not include more than 2 and 4 Canada geese, respectively.

New Mexico: The daily bag and possession limits for dark geese may not include more than 2 and 4 Canada geese, respectively.

Oregon: Eastern Zone—In the *Columbia Basin Goose Area*, the season may be an additional 7 days.

Western Zone—In the *Special Canada Goose Management Area*, except for designated areas, there shall be no open season on Canada geese. In those designated areas, seasons must end upon attainment of their individual quotas which collectively equal 210 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so.

In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of cackling and Aleutian Canada geese.

Baker and Malheur Counties Zone—The season must end on or before the first Sunday in January (January 6, 1991). Bag and possession limits of dark geese may not include more than 2 and 4 Canada geese, respectively.

Lake and Klamath Counties Zone—White-fronted geese may not be taken before November 1 during the regular goose season.

Brant Season—A 16-consecutive-day season on brant may be selected.

Utah: Washington County Zone—The season must end on or before the Sunday closest to January 20 (January 20, 1991). The daily bag and possession limits for dark geese may not include more than 2 Canada geese.

Remainder-of-the-State-Zone—The season must end on or before the second Sunday in January (January 13, 1991). The daily bag and possession limits for dark geese may not include more than 2 and 4 Canada geese, respectively. In Cache County, the combined special September Canada goose season and the regular goose season shall not exceed 93 days.

Washington: Daily bag and possession limits are 3 and 6 geese.

Eastern Zone—In the *Columbia Basin Goose Area*, the season may be an additional 7 days.

Western Zone—In the *Lower Columbia River Special Canada Goose Management Area*, except for designated areas, there shall be no open season on Canada geese. For designated areas, seasons on Canada geese must end upon attainment of individual quotas which collectively will equal 90 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of cackling and Aleutian Canada geese.

Brant Season—A 16-consecutive-day season on brant may be selected.

Wyoming: In Lincoln, Sweetwater, and Sublette Counties, the combined special September Canada goose seasons and the regular goose season shall not exceed 93 days. The season must end on or before the second Sunday in January (January 13, 1991).

Tundra Swans

In Montana, Nevada, New Jersey, North Carolina, North Dakota, South Dakota, Utah, and Virginia, an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States and will authorize each permittee to take no more than 1 tundra swan per season. These seasons will be subject to the following conditions:

In the *Atlantic Flyway*

—The season will be experimental.
—The season may be 90 days, must occur during the white goose season, but may not extend beyond January 31.
—The States must obtain harvest and hunter participation data.
—In New Jersey, no more than 200 permits may be issued.
—In North Carolina, no more than 6,000 permits may be issued.
—In Virginia, no more than 600 permits may be issued.

In the *Central Flyway*

—In the Central Flyway portion of Montana, no more than 500 permits may be issued. The season must run concurrently with the season for taking geese.
—In North Dakota, no more than 1,000 permits may be issued. The season must run concurrently with the season for taking light geese.
—In South Dakota, no more than 500 permits may be issued. The season must run concurrently with the season for taking light geese.

In the *Pacific Flyway*

—A 93-day season may be selected between the Saturday closest to October 1 (September 30, 1990), and the Sunday closest to January 20 (January 21, 1991). Seasons may be split into 2 segments.
—The States must obtain harvest and hunter participation data.
—In Utah, no more than 2,500 permits may be issued.
—In Nevada, no more than 650 permits may be issued. Permits will be valid for Churchill, Lyon, or Pershing Counties.
—In the Pacific Flyway portion of Montana, no more than 500 permits may be issued. Permits will be valid for Cascade, Hill, Liberty, Pondera, Teton, or Toole Counties.

Special Falconry Frameworks

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length for the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1, 1990 and March 10, 1991.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended season.

Regular Seasons: General hunting regulations, including seasons and hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Note: Total season length for all hunting methods combined shall not exceed 107 days for any species or group of species in one geographical area. The extension of this framework to include the period September 1, 1990–March 10, 1991, and the option to split the extended falconry season into a maximum of 3 segments are considered tentative, and may be evaluated in cooperation with States offering such extensions after a period of several years.

Area, Unit and Zone Descriptions

Ducks

Atlantic Flyway

Connecticut—North Zone: That portion of the State north of I–95.

South Zone: That portion of the State north of I–95.

Maine—North Zone: Game Management Zones 1 through 5.

South Zone: Game Management Zones 6 through 8.

Massachusetts—Berkshire Zone: That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I–93, south on I–93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28,

west on Route 28 to I–195, west to the Rhode Island line; except the waters, and the lands 150 yards along the high-water mark, of the Assonet River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire—Coastal Zone: That portion of the State east of a boundary formed by State Highway 4 beginning at the Main-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone: That portion of New Hampshire north and west of the above boundary.

New Jersey—Coastal Zone: That portion of the State seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware boundary in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone: That portion of New Jersey not within the North Zone or the Coastal Zone.

New York—Lake Champlain Zone: Includes the U.S. portion of Lake Champlain and that area east and north of a continuous line extending along Route 9B from the New York-Canadian boundary to Route 9, then south along Route 9 to Route 22 south of Keesville; then south along Route 22 to the west shore of South Bay, then along and around the shoreline of South Bay to Route 22 on the east shore of South Bay; then southeast along Route 22 to Route 4, then northeast along Route 4 to the New York-Vermont boundary.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of Interstate Route 95, and their tidal waters.

Western Zone: That area west of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate Route 81, and then south along Interstate Route 81 to the New York-Pennsylvania boundary.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate Route 81, then south along Interstate Route 81 to Route 49, then east along route 49 to Route 365, then east along Route 365 to Route 28, then east along Route 28 to Route 29, then east along Route 29 to Interstate Route 87, then north along Interstate Route 87 to Route 9 (at Exit 20), then north along Route 9 to Route 149, then east along Route 149 to Route 4, then north along Route 4 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: That area east of Interstate Route 81, that is south of a continuous line extending from Interstate Route 81 east along Route 49 to Route 365, then east along 365 to Route 28, then east along Route 28 to Route 29, then east along Route 29 to Interstate Highway 87, then north along Interstate Highway 87 to Route 9 (at Exit 20), then north along Route 9 to Route 149, then east along Route 149 to Route 4, then north along Route 4 to the New York-Vermont boundary, and northwest of Interstate Route 95 in Westchester County.

Pennsylvania—Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone: That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147; then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junction with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone: That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I–80, and on the west by the Ohio line.

South Zone: The remaining portion of Pennsylvania.

Vermont—Lake Champlain Zone: Includes the United States portion of Lake Champlain and that portion of Vermont lying north and west of the line extending from the New York border at U.S. Highway 4; along U.S. Highway 4 to Vermont Route 22A at Fair Haven; Route 22A to U.S. Highway 7 at Vergennes; U.S. Highway 7 to the Canadian border.

Interior Vermont Zone: The remaining portion of Vermont.

West Virginia—Zone 1 (Remainder of the State): That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U S. Route 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows: Route 19 north to the intersection of I–79, and follows I–79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line and the State line to the point of beginning.

Mississippi Flyway

Alabama—South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois—North Zone: That portion of the State north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State between the North and South Zone boundaries.

South Zone: That portion of the State south of a line extending east from the Missouri border along the Modoc Ferry route to Randolph County Highway 12, north along County 12 to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, then east along I–70 to the Indiana border.

Indiana—North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa—North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Louisiana—West Zone: That portion of the State west of a line extending south from the Arkansas border along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to Houma, then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass.

East Zone: The remainder of Louisiana.

Michigan—North Zone: The Upper Peninsula.

South Zone: That portion of the State south of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and east and south along the south shore of, Stony Creek to Webster Road; east and south on Webster Road to Stony Lake Road, east on Stony Lake and Garfield Roads to Michigan Highway 20, east on Michigan 20 to U.S. Highway 10B.R. in the city of Midland, east on U.S. 10B.R. to U.S. 10, east on U.S. 10 and Michigan 25 to the Saginaw River, downstream along the thread of the Saginaw River to Saginaw Bay, then on a northeasterly line, passing one-half mile north of the Corps of Engineers confined disposal island offshore of the Carn Power Plant, to a point one mile north of the Charity islands, then continuing northeasterly to the Ontario border in Lake Huron.

Middle Zone: The remainder of Michigan.

Missouri—North Zone: That portion of the State north of a line extending east from the Kansas border along U.S. Highway 54 to U.S. 65, south along U.S. 65 to State Highway 32, east along State 32 to State 72, east along State 72 to State 21, south along State 21 to U.S. 60, east along U.S. 60 to State 51, south along State 51 to State 53, south along State 53 to U.S. 62, east along U.S. 62 to Interstate Highway 55, north along I–55 to State 34, then east along State 34 to the Illinois border.

South Zone: The remainder of Missouri.

Lower St. Francis River Area: That part of the St. Francis River south of U.S. Highway 62 that is the boundary between Arkansas and Missouri, and all sloughs and chutes (but not tributaries) connected to it.

Ohio—North Zone: The Counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State 204, and on the east by State 13.

Pymatuning Area: Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 (known as Woodward Road), on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Ohio River Zone: The Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Tennessee—Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin—Northern Zone: That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State 35 to State 25, north along State 25 to U.S. Highway 10, east along U.S. 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan.

Southern Zone: The remainder of Wisconsin.

Central Flyway

Kansas—High Plains: That area west of U.S.–283.

Low Plains: That area east of U.S.–283.

Montana (Central Flyway Portion—*Experimental Zone 1:* The Counties of Big Horn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweet grass, Valley, Wheatland and Yellowstone.

Experimental Zone 2: The Counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska—High Plains: West of Highways U.S. 183 and U.S. 20 from the northern State line to Ainsworth, N–7 and N–91 to Dunning, N–2 to Merna, N–92 to Arnold, N–40 and N–47 through Gothenburg to N–23, N–23 to Elwood, and U.S. 283 to the southern State line.

Low Plains: East of the High Plains boundary.

Zone 1: Keya Paha County east of U.S. Highway 183 and all of Boyd County including the adjacent waters of the Niobrara River.

Zone 2: The area bounded by designated highways and political boundaries starting on U.S. 73 at the State line near Falls City; north to N–67; north through Nemaha to U.S. 75; north to U.S. 34; west to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to N–10; south to the State line; west to U.S. 283; north to N–23; west to N–47; north to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281, north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 75; north to N–51; east to the State line; and south and west along the State line to the point of beginning.

Zone 3: The area, excluding Zone 1, north of Zone 2.

Zone 4: The area south of Zone 2.

New Mexico (Central Flyway Portion)—*Experimental Zone 1:* The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Experimental Zone 2: The remainder of the Central Flyway portion of New Mexico.

North Dakota—High Plains: That portion of North Dakota west of the following line: beginning at the South Dakota border, then north on U.S. 83 and I–94 to ND 41, then north to ND 53, then west to U.S. 83, then north to ND 23, then west to ND 8, then north to U.S. 2, then west to U.S. 85, then north to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma—High Plains: Beaver, Cimarron, and Texas Counties.

Low Plains:

Zone 1: That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways:

starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177 to OK 33, OK 33 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas State line.

Zone 2: The remainder of the Low Plains portion of Oklahoma.

South Dakota—High Plains: West of highways and political boundaries starting at the State line north of Herreid; U.S. 83 to U.S. 14 to Blunt, Blunt-Canning Road to SD–34, a line across the Missouri River to the northwestern corner of the Lower Brule Indian Reservation, the Reservation Boundary and Lyman County Road through Presho to I–90, and U.S. 183 to the southern State line.

Low Plains

South Zone: Bon Homme, Yankton and Clay Counties south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and FAS 6516 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Union County south and west of S.D. Highway 50 and Interstate Highway 29.

North Zone: The remainder of the Low Plains portion of South Dakota.

Texas—High Plains: West of highways U.S. 183 from the northern State line to Vernon, U.S. 283 to Albany, T–6 and T–351 to Abilene, U.S. 277 to Del Rio and the Del Rio International Toll Bridge access road.

Low Plains: The remainder of Texas.

Pacific Flyway

California—Northeastern Zone: In that portion of the State lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with old Highway 99 at the town of Grenada; south along old Highway 99 to its junction with Interstate 5 just north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to the junction of Highway 49; east and north on Highway 49 to the junction of Highway 70; east on Highway 70 to Highway 395; south and east of Highway 395 to the point of intersection with the California-Nevada State line.

Colorado River Zone: In those portions of San Bernardino, Riverside, and Imperial counties lying east of the following lines: Beginning at the intersection of Highway 95 with the California-Nevada State line; south along Highway 45 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside county line on a road known as "Aqueduct Road" in San Bernardino County; south from the San Bernardino-Riverside county line on road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe-Brawley paved road to its intersection with the Ogilby and Tumco Mine Road; south on this road to Highway 80; east seven miles on Highway 80 to its intersection with the Andrade-Algodones Road; south on this paved road to the intersection of the Mexican boundary line at Algodones, Mexico.

Southern Zone: In that portion of southern California (but excluding the Colorado River zone) lying south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 166 near the City of Santa Maria; east on Highway 166 to the junction of Highway 99; south on Highway 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east of Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada State line.

District 22 Defined: All of Imperial County, and those portions of Riverside and San Bernardino counties lying south and east of the following line: Starting at the intersection of Highway 86 and the north boundary of Imperial County, north along Highway 86 to Highway 111; north along Highway 111 to its junction with Interstate 10 in the town of Indio, east on Interstate 10 to its junction with the Cottonwood Springs road in Sec. 9, T6S, R11E; north along that road and the Mecca Dale road to Amboy; east along Highway 66 to its intersection with Highway 95; north along Highway 95 to the California-Nevada boundary.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

Idaho—Zone 1 (Ft. Hall-American Falls Zone): Includes all lands and waters within the Fort Hall Indian Reservation and Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Includes the remainder of Idaho.

Nevada—Clark County Zone: All of Clark County.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon—Columbia Basin Mallard Management Unit: Morrow and Umatilla Counties.

Washington—East (Columbia Basin Mallard Management Unit): Includes all areas lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West: Includes all areas lying to the west of Eastern Washington.

Geese

Atlantic Flyway

Connecticut—Same zones as for ducks.

Georgia—Special Area for Canada Geese: See State Regulations.

Massachusetts—Same zones as for ducks.

New Hampshire—Same zones as for ducks.

New Jersey—Same zones as for ducks.

New York—Same zones as for ducks, but in addition:

Early-Season Goose Area: All or portions of St. Lawrence County; see State Hunting Regulations for area descriptions.

North Carolina—Canada Geese: East of I–95 Zone: That portion of North Carolina east of I–95.

West of I–95 Zone: That portion of North Carolina west of I–95.

Pennsylvania—Same zones as for ducks but in addition:

Southeast Zone: That portion of the State lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I–81 to Route 443, east on 443 to Leighton, then east via 208 to Stroudsburg, then east on I–80 to the New Jersey line; and that portion of the Susquennah River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river.

Virginia—Back Bay Area: Defined for *Canada geese* as those portions of the cities of Virginia Beach and Chesapeake lying east of U.S. Highway 17 and Interstate 64.

Defined for *white geese* as the waters of Back bay and its tributaries and the

marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

West Virginia—Same zones as for ducks.

Mississippi Flyway

Arkansas—Special Area for Canada Geese: Canada geese may be hunted only in the following counties: Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe, Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, White, and Woodruff.

Illinois—Same zones as for ducks but in addition:

North and Central Zones

Tri-County Zone: The following counties or portions of counties: Fulton (Buckheart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, and Putnam Townships, and that portion of Banner Township bounded on the north by Illinois Highway 9 and on the east by U.S. Highway 24) and Knox Counties.

South Zone

Southern Illinois Quota Zone: Alexander, Jackson, Union, and Williamson Counties.

Rend Lake Quota Zone: Franklin and Jefferson Counties.

Early Canada Goose Seasons

Northeastern Illinois Canada Goose Zone: Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

Iowa—Southwest Zone: That portion of the State lying south and west of a line extending north from the Missouri border along U.S. Highway 71 to Interstate Highway 80, west on I–80 to U.S. 59, north on U.S. 59 to State Highway 37, then northwest on State 37 to State 175, then west on State 175 to the Nebraska border.

Kentucky—Western Zone: That area west of a line beginning at the Tennessee border at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to U.S. 41, then north along U.S. 41 to the Indiana border.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter; then soutwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Those portions of Henderson and Union Counties within the Western Zone.

Louisiana—Southwest Zone: That portion of the State bounded by a line extending east from the Texas border along Louisiana Highway 12 to Ragley, then along U.S. Highway 190 to Opelousas, then on I–49 to Lafayette, then south along U.S. 167 to Louisiana 82, then west along Louisiana 82 to the Texas border.

Michigan—Same zones as for ducks but in addition:

North Zone

Superior Counties Goose Management Unit (GMU): The Counties of Ontonagon, Houghton, Baraga, and Marquette.

South Zone

Fish Point GMU: Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bayport Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary:

Allegan County GMU: That area encompassed by a line beginning at the junction of U.S. Highway 131 and 102nd Avenue in Otsego township, Allegan County, and extending westerly along 102nd Avenue, 101st Street, and again on 102nd Avenue to 42nd Street in Cheshire township, Allegan County, southerly along 42nd Street to 10th Avenue in the Village of Bloomingdale, Van Buren County, westerly along 10th Avenue to 46th Street, northerly along 46th Street to Phoenix Road, westerly along Phoenix Road, northerly along 150th Street and west again along Phoenix Road to 57th Street in Columbia township, Van Buren County, southerly along 57th Street to Phoenix Road, westerly on Phoenix Road to U.S. 31 at South Haven, northerly along U.S. 31 to Interstate Highway 196, northeasterly along I–196 to Adams Street in Holland township, Ottawa County, easterly along Adams Street and 100th Street to U.S. 131 in Byron township, Kent County, then southerly along U.S. 131 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Fergus, Bueche, and west Verne Roads on the south; and Michigan 13 on the east.

Muskegon County Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Southern Michigan GMU: That portion of the State, including the Great Lakes and interconnecting waterways and excluding the Allegan County GMU, south of a line beginning at the Ontario border at the Bluewater Bridge in the city of Port Huron and extending westerly and southerly along Interstate Highway 94 to I–69, westerly along I–69 to Michigan Highway 21, westerly along Michigan 21 to I–96, northerly along I–96 to I–196, westerly along I–196 to Lake Michigan Drive (M–45) in Grand Rapids, westerly along Lake Michigan Drive to the Lake Michigan shore, then directly west from the end of Lake Michigan Drive to the Wisconsin border.

Early Canada Goose Seasons

Upper Peninsula—That area east of a line beginning at the Wisconsin border in Green Bay and extending north through the center of Little Bay De Noc and the center of White Fish River to U.S. Highway 2, east along U.S. 2 to Interstate Highway 75, north along I–75 to Michigan Highway 28, west along Michigan 28 to Michigan 221, north along Michigan 221 to Brimley, then north to the Ontario border.

Lower Peninsula—All areas except the Shiawassee River, Allegan, Lapeer and Muskegon State Game Areas (SGA), the Shiawassee National Wildlife Refuge, that portion of the Maple River SGA east of State Road, that portion of the Pointe Mouillee SGA south of the Huron River, Muskegon County Wastewater Area, that portion of the Fish Point Wildlife Area posted "State Game Area—Hunting by Permit Only", the East Unit of Wigwam Bay Wildlife Area, and Nayanquing Point Wildlife Areas.

Minnesota—West Central Goose Zone: That area encompassed by a line

beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to County Road 70 in Lac qui Parle County, west along County Road 70 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersecton, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Lac Qui Parle Goose Zone—That area encompassed by a line beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27 in Lac qui Parle County and extending north along CSAH 27 to CSAH 20 in Lac qui Parle County, west along CSAH 20 to State Trunk Highway (STH) 40, north along STH 40 to STH 119, north along STH 119 to CSAH 34 in Lac qui Parle County, west along CSAH 34 to CSAH 19 in Lac qui Parle County, north and west along CSAH 19 to CSAH 38 in Lac qui Parle County, west along CSAH 38 to U.S. 75, north along U.S. 75 to STH 7, east along STH 7 to CSAH 6 in Swift County, east along CSAH 6 to County Road 65 in Swift County, south along County Road 65 to County Road 34 in Chippewa County, south along County Road 34 to CSAH 12 in Chippewa County, east along CSAH 12 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 7, southeast along STH 7 to Montevideo and along the municipal boundary of Montevideo to U.S. 212; then west along U.S. 212 to the point of beginning.

Southeast Goose Zone: The Counties of Anoka, Carver, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Mower, Olmsted, Ramsey, Rice, Scott, Steele, Wabasha, Washington, and Winona.

Early Canada Goose Seasons

Fergus Falls/Alexandria Canada Goose Zone: That area encompassed by a line beginning at the intersection of State Truck Highway (STH) 55 and STH 28 and extending east along STH 28 to County State Aid Highway (CSAH) 33 in Pope County, north along CSAH 33 to CSAH 3 in Douglas County, North along CSAH 3 to CSAH 69 in Otter Tail County, north along CSAH 69 to CSAH 46 in Otter Tail County, east along CSAH 46 to the eastern boundary of Otter Tail County, north along the east boundary of Otter Tail County to CSAH 40 in Otter Tail County, west along CSAH 40 to CSAH 75 in Otter Tail County, north along CSAH 75 to STH 210, west along STH 210 to STH 108, north along STH 108 to CSAH 1 in Otter Tail County, west along CSAH 1 to CSAH 14 in Otter Tail County, north along CSAH 14 to CSAH 44 in Otter Tail County, west along CSAH 44 to CSAH 35 in Otter Tail County, north along CSAH 35 to STH 108, west along STH 108 to CSAH 19 in Wilkin County, south along CSAH 19 to STH 55, then southeast along STH 55 to the point of beginning.

Southwest Border Canada Goose Zone: All of Martin County and that portion of Jackson County south and east of U.S. Highway 60.

Early and Late Canada Goose Seasons

Twin Cities Metropolitan Goose Zone—All or portions of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties.

Missouri—North Goose Zone: That portion of the State north and west of a line extending south from Crystal City along U.S. Highway 67 to U.S. 60, west along U.S. 60 to Missouri Highway 21, north along Missouri 21 to Missouri 72, west along Missouri 72 to Missouri 32, west along Missouri 32 to U.S. 65, north along U.S. 65 to U.S. 54, west along U.S. 54 to the Kansas border.

Swan Lake Zone: That area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri 240 and U.S. 65 on the south, and U.S. 65 on the west.

Southeast Goose Zone: That area lying east of U.S. Highway 67 and south of Crystal City.

Lower St. Francis River Area: That part of the St. Francis River south of U.S. Highway 62 that is the boundary between Arkansas and Missouri, and all sloughs and chutes (but not tributaries) connected to it.

South Goose Zone: The remainder of Missouri.

Ohio—Pymatuning Area: Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 (known as Woodward Road), on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Tennessee—Southwest Tennessee Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Tennessee Zone: Lake, Obion and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lake Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Tennessee Zones and on the east by State Highway 13 from the Alabama border to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky border

Wisconsin—Horicon Zone: The area encompassed by a border commencing at the intersection of Highway 21 and Fox River in Winnebago County, then running westerly along Highway 21 to its intersection with the west boundary of Winnebago County, then southerly along the west boundary of Winnebago County to its intersection with the north boundary of Green Lake County, then westerly along the north boundary of Green Lake County to its intersection with the north boundary of Marquette County, then westerly along the north boundary of Marquette County to its intersection with Highway 22, then southerly along Highway 22 to its intersection with Highway 33, then westerly along Highway 33 to its intersection with Highway 78, then southerly along Highway 78 to its intersection with Interstate 90/94, then southerly along Interstate 90/94 to its intersection with Highway 60, then easterly along Highway 60 to its intersection with Highway 83, then northerly along Highway 83 to its intersection with Highway 175, then northerly along Highway 175 to its intersection with Highway 28, then westerly along Highway 28 to its intersection with County Highway AY, then northerly and then westerly along County Highway AY to its intersection with County Highway Y, then northerly along County Highway Y to its intersection with County Highway H, then easterly along County Highway H to its intersection with Highway 67, then easterly along Highway 67 to its intersection with Highway 45, then northwesterly along Highway 45 to its intersection with the east shore of the Fond Du Lac River, then northerly along the east shore of the Fond Du Lac River to its intersection with Lake Winnebago, then northerly along the western shoreline of Lake Winnebago to its intersection with the Fox River, then westerly along the Fox River to its intersecion with Highway 21.

Pine Island Zone: The area encompassed by a border commencing

at the interestion of Highway 16 and Highway 78 in Columbia County, then running westerly along Highway 16 to its intersection with Weyh Road, then southerly along Weyh Road to the most southerly point of its intersection with the West Boundary of Section 31, then southerly along the West Boundary of Section 31 to its intersection with the Sauk County/Columbia County boundary, then southerly along Sauk County/Columbia County boundary to its intersection with Highway 33, then westerly along Highway 33 to its intersection with Interstate 90/94, then southeasterly along Interstate 90/94 to its intersection with Highway 78, then northerly along Highway 78 to its intersection with Highway 16.

Collins Zone: The area encompassed by a border commencing at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County, then running westerly along Hilltop Road to its intersection with Humpty Dumpty Road, then southerly along Humpty Dumpty Road to its intersection with Poplar Grove Road, then easterly and then southerly along Poplar Grove Road to its intersection with County Highway JJ, then southeasterly along County Highway JJ to its intersection with Collins Road, then southerly along Collins Road to its intersection with the Manitowoc River, then southeasterly along the Manitowoc River to its intersection with Quarry Road, then northerly along Quarry Road to its intersection with Einberger Road, then northerly along Einberger Road to its intersection with Moschel Road, then westerly along Moschel Road to its intersection with Collins Marsh Road, then northerly along Collins Marsh Road to its intersection with Hilltop Road.

Theresa Zone: The area encompassed by a border commencing at the intersection of Highways 45 and 67 in Fond Du Lac County, then running westerly along Highway 67 to its intersection with County Highway H, then westerly along County Highway H to its intersection with County Highway Y, then southerly along County Highway Y to its intersection with County Highway AY, then easterly and southerly along County Highway AY to its intersection with Highway 28, then easterly along Highway 28 to its intersection with Highway 175, then southerly along Highway 175 to its intersection with Highway 33, then easterly along Highway 33 to its intersection with Highway 45, then northerly along Highway 45 to its intersection with Highway 67.

Exterior Zone

Mississippi River Subzone: That portion of the State encompassed by a line beginning at the intersection of the Burlington Northern Railway and the Illinois border in Grant County, then extending northerly along the Burlington Northern Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota border.

Rock Prairie Subzone: The area encompassed by a border commencing at the intersection of County Highway A and Highway 12, then westerly along County Highway A to this intersection with Interstate 90, then southerly along Interstate 90 to its intersection with the Illinois State line, then easterly along the Illinois State line to its intersection with Highway 120, then northerly along Highway 120 to its intersection with Highway 50, then easterly along Highway 50 to its intersection with Highway 12, then northerly along Highway 12 to its intersecion with County Highway A.

Brown County Subzone: The area encompassed by a border commencing at the intersection of the Fox River with Green Bay in Brown County, then running southerly along the Fox River to its intersection with Highway 29, then northwesterly along Highway 29 to its intersection with the Brown County line, then counterclockwise along the Brown County line to its intersection with Green Bay, then directly east to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to its intersection with the Fox River.

Remainder of Exterior Zone: That portion of the State not included in the Horicon, Pine Island, Collins, or Theresa Zones; or Rock Prairie, Mississippi River, or Brown County Subzones.

Early Canada Goose Seasons

Early Goose Hunt Subzone: That area bounded by a line beginning at Lake Michigan in Port Washington and extending west along Highway 33 to Highway 175, south along Highway 175 to Highway 83, south along Highway 83 to Highway 36, southwest along Highway 36 to Highway 120, south along Highway 120 to Highway 12, then southeast along Highway 12 to the Illinois State line.

Central Flyway

Colorado (Central Flyway Portion)—*North Central Unit:* Bounded by the Continental Divide, the northern State line, and highways US–85 to I–76, I–76 to I–25, I–25 to I–70 and I–70 to the Continental Divide.

South Park Unit: Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

San Luis Valley Unit: Alamosa, Conejos, Costilla, and Rio Grande Counties and the portion of Saguache County east of the Continental Divide.

North Park Unit: Jackson County.

Arkansas Valley Unit: Baca, Bent, Crowley, Kiowa, Otero and Prowers Counties.

Remainder: Remainder of the Central Flyway portion of Colorado.

Kansas—White Geese:

Unit 1: That area east of US–75 and north of I–70.

Unit 2: The remainder of Kansas.

Dark Geese:

Marais des Cygne Valley Unit: The area is bounded by the Missouri State line to K–68, K–68 to U.S–169, U.S.–169 to K–7, K–7 to K–31 to, K–31 U.S.–69, U.S.–69 to K–239, K–239 to the Missouri State line.

South Flint Hills Unit: The area is bounded by Highways U.S. 50 to K–57, K–57 to U.S.–75, U.S.–75 to K–39, K–39 to K–96, K–96 to U.S.–77, U.S.–77 to U.S.–50.

Central Flint Hills Unit: That area southwest of Topeka bounded by Highways U.S.–75 to Interstate 35, Interstate 35 to U.S.–50, U.S.–50 to U.S.–77, U.S.–77 to Interstate 70, Interstate 70 to U.S.–75.

Strip Pits Unit: That area of southeast Kansas bounded by the Missouri State line to U.S.–160, U.S.–160 to U.S.–69, U.S.–69 to K–39, K–39 to U.S.–169, U.S.–169 to the Oklahoma State line, and the Oklahoma State line to the Missouri State line.

Montana (Central Flyway Portion)—*Sheridan County:* Includes all of Sheridan County.

Remainder: Includes the remainder of the Central Flyway portion of Montana.

Nebraska—North Unit: Keya Paha County east of US–183 and all of Boyd County, including the boundary waters of the Niobrara River, all of Knox County and that portion of Cedar County west of U.S. 81.

East Unit: The area east of a line beginning at US–183 at the northern State line; south to N–2; east to US–281; south to the southern State line, excluding the North Unit.

West Unit: All of Nebraska west of the East Unit.

New Mexico (Central Flyway Portion)—*White Geese:*

Rio Grande Valley Unit: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota—Missouri River Zone: The dark goose late-season zone is that portion of North Dakota encompassed by a line starting at the South Dakota border, then north on U.S. 83 and I–94 to ND 41, then north to ND 53, then west to U.S. 83, then north to ND 23, then west to ND 37, then south to ND 1804, then south approximately 9 miles to Elbowoods Bay on Lake Sakakawea, then south and west across the lake to ND 8, then south to ND 200, then east to ND 31, then south to ND 25, then south to I–94, then east to ND 6, then south to the South Dakota border, and then east to the point of origin.

Statewide: All of North Dakota.

South Dakota—Dark Geese:

Missouri River Unit: The Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson (east of highway SD–65), Dewey, Gregory, Haakon (north of Kirley Road and east of Plum Creek), Hughes, Hyde, Lyman (north and east of highways I–90 and US–183), Potter, Stanley, Sully, Tripp (east of highway US–183), Walworth, and Yankton (west of highway US–81).

Remainder: The remainder of South Dakota.

Texas—West: West of U.S. 81.

East: East of U.S. 81.

Wyoming (Central Flyway Portion)—See State Regulations

Pacific Flyway

Arizona—GMU 22 and 23: Game Management Units 22 and 23.

Remainder of State: The remainder of Arizona.

California—Same zones as for ducks but in addition:

Del Norte and Humboldt Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Area: That area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale Bypass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows.

Western Canada Goose Hunt Area: That portion of the above described Sacramento Valley Area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to State Highway 20; and westerly along State Highway 20 to the Sacramento River.

San Joaquin Valley Area: That area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 165; then northerly on State Highway 165 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning.

Colorado (Pacific Flyway Portion)—*Browns Park Zone:* The Browns Park portion of Moffatt County.

Delta and Montrose Counties Zone: All of Delta and Montrose Counties.

Gunnison and Saguache Counties Zone (west of the Continental Divide): Gunnison County and that portion of Saguache County lying west of the Continental Divide.

Dolores, LaPlata, and Montezuma Counties zone: All of Dolores, LaPlata, and Montezuma Counties.

Remainder-of-the-State in the Pacific Flyway Zone: The remainder of the Pacific Flyway Portion of Colorado.

Idaho—Area 1 Zone: Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties.

Area 2 Zone: Bear Lake, that portion of Bingham County within the Blackfoot Reservoir drainage, Blaine County north and west of U.S. Highway 93, Boise, Bonneville, Butte, Camas, Caribou County except that portion within the Fort Hall Indian Reservaiton, Clark, Clearwater, Custer, that portion of Elmore County north and east of Interstate 84, Franklin, Fremont, Idaho, Jefferson, Latah, Lemhi, Lewis, Madison, Nez Perce, Oneida, that portion of Power County west of State Highway 37 and State Highway 39, Teton, and Valley Counties.

Area 3 Zone: Ada, Adams, Canyon, Elmore County south and west of Interstate 84, Gem, Owyhee County west of State Highway 51, Payette, and Washington Counties.

Area 4 Zone: Blaine County south and east of U.S. Highway 93, Cassie, Gooding, Jerome, Lincoln, Minidoka, Owyhee County east of State Highway 51, and Twin Falls Counties.

Area 5 Zone (Ft. Hall-American Falls Zone): All lands, including private holdings, within the fort Hall Indian Reservation, Bannock, Bingham except that portion within the Blackfoot Reservoir drainage, Power County east of State Highway 37 and Highway 39.

In addition, goose frameworks are set by the following geographical areas:

10 Northern Counties Area: The Counties of Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater, and Idaho.

Southwestern Area: That portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except the 10 Northern Counties Area).

Southeastern Area: That portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border.

Montana (Pacific Flyway Portion)—*East of the Continental Divide Zone:* The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Continental Divide Zone: Includes the remainder of the Pacific Flyway portion of Montana.

Nevada—Clark County Zone: Clark County.

Elko County and that portion of Ruby Lake National Wildlife Refuge within White Pine County Zone: All of Elko County and that portion of Ruby Lake National Wildlife Refuge within White Pine County.

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)—*North of I–40 Zone:* The Pacific Flyway portion of New Mexico located north of I–40.

South of I–40 Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon—Western Zone: Consists of all counties west of the summit of the Cascades, excluding Klamath and Hood River Counties.

Special Canada Goose Management Area: Consists of those portions of Coos, Curry, Douglas and Lane Counties lying west of U.S. Highway 101; and that portion of western Oregon west and north of a line starting at the Columbia River at Portland, south on Interstate 5

to Hwy 22 at Salem, east on Hwy 22 o the Stayton Cutoff, south on the Stayton Cutoff to Stayton and straight south to the Santiam River, west (downstream) along the north shore of the Santiam River to Interstate 5, south on Interstate 5 to its junction with Hwy 126 at Eugene, and west on Hwy 126 to Highway 36, north on Highway 36 to Forest Road 5070 at Brickerville, west and south on Forest Road 5070 to Highway 126, west on Highway 126 to the Oregon Coast.

Northwest Oregon Special Permit Goose Area: Includes Sauvie Island Wildlife Area, only in designated areas but excluding North Unit and Columbia River Beaches, private lands of Sauvie Island, and including Scappoose Flat and Deer Island, lower Columbia River Area, Ankeny National Wildlife Refuge, private lands adjacent to William L. Finley National Wildlife Refuge, and private lands adjacent to Baskett Slough National Wildlife Refuge.

Early-Season Canada Goose Area: Starting in Portland at the Interstate Highway 5 Bridge, south on I–5 to U.S. Highway 30, west on U.S. Highway 30 to the Astoria-Megler Bridge, from the Astoria-Megler Bridge along the Oregon-Washington State line to the point of beginning.

Eastern Zone: Consists of all counties east of the summit of the Cascades, including all of Klamath and Hood River Counties.

Columbia Basin Goose Area: Includes the Counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa, and Wasco.

Lake and Klamath Counties Zone: All of Lake and Klamath Counties.

Baker and Malheur Counties Zone: All of Baker and Malheur Counties.

Utah—Washington County Zone: All of Washington County.

Remainder-of-the-State Zone: The remainder of Utah.

Early-Season Canada Goose Area: Cache County.

Washington–Eastern Washington Zone: Includes all areas lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Goose Area–Adams, Benton, Douglas, Fraklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Counties and east of Satus Pass (U.S. Highway 97) in Klickitat County.

Western Washington Zone: Includes all areas lying to the west of Eastern Washington.

Lower Columbia River Special Goose Management Area–Clark, Cowlitz, Pacific and Wahkiakum Counties.

Skagit Special Goose Management Area—Island, Skagit, Snohomish, and Whatcom Counties.

Early-Season Canada Goose Area—Starting in Vancouver at the Interstate Highway 5 Bridge north on I–5 to Kelso, west on State Highway 4 from Kelso to State Highway 401, south and west on State Highway 401 to the Astoria-Megler Bridge, from the Astoria-Megler Bridge along the Washington-Oregon State line to the point of beginning.

Wyoming (Pacific Flyway Portion)—*Early Season Areas:* See State Regulations.

[FR Doc. 90–22323 Filed 9–20–90; 8:45 am]

BILLING CODE 4310–55–M

federal register

Friday
September 21, 1990

Part III

Department of Education

Special Programs for Students From Disadvantaged Backgrounds; Upward Bound Program, Talent Search Program, Student Support Services Program; Notice

DEPARTMENT OF EDUCATION

Special Programs for Students From Disadvantaged Backgrounds; Upward Bound Program, Talent Search Program, Student Support Services Program

AGENCY: Department of Education.

ACTION: Combined notice of proposed funding priorities for fiscal year 1991.

SUMMARY: The Secretary proposes funding priorities for fiscal year 1991 for service activities to be supported under the following programs of the Special Programs for Students from Disadvantaged Backgrounds: Upward Bound, Talent Search, and Student Support Services. Funding for these programs is contingent upon availability of appropriations; appropriations have not been enacted at this time.

DATES: Comments must be received on or before October 22, 1990.

ADDRESSES: Comments should be addressed to Jowava M. Leggett, Director, Division of Student Services, Office of Postsecondary Education, (room 3060, Regional Office Building.–3) 400 Maryland Avenue, SW., Washington, DC 20202–5249. Telephone (202) 708–4804.

FOR FURTHER INFORMATION CONTACT: The contact person listed under each of the programs.

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3), the Secretary proposes to set aside funds and give an absolute preference to applications that respond to one of the proposed priorities described in this notice for fiscal year 1991. An absolute priority permits the Secretary to select for funding only those applications proposing projects that meet one of these priorities. The Secretary invites public comment on the merits of the proposed priorities. The Secretary will publish a Closing Date Notice for each of these priorities at a later date.

The final priorities will be announced in the **Federal Register**. The final priorities will be determined by responses to this notice and available funds. The publication of these priorities does not bind the United States Department of Education to fund projects under any or all of these programs. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received.

The following proposed priorities represent areas in which the Secretary proposes to support service activities through grants in three programs: Upward Bound, Talent Search and Student Support Services. Brief descriptions of the three programs follow.

The Upward Bound Program is designed to generate skills and motivation necessary for success in education beyond high school among low-income and potential first-generation college students who are enrolled in high school or who are veterans seeking to prepare themselves for entry into postsecondary programs.

The Talent Search program identifies disadvantaged young people with potential for postsecondary education, encourages them to continue and graduate from secondary schools and to enroll in programs of postsecondary education, and encourages high school dropouts to return to school.

The Student Support Services program provides supportive services to disadvantaged college students to enhance their potential for successfully completing the education program in which they are enrolled.

Proposed Priority for the Upward Bound Program

The Secretary proposes to establish an absolute priority for a fiscal year 1991 grant competition under the Upward Bound Program. Under the priority, funds would be used to establish regional centers, each of which would offer an intensified math and science curriculum along with other curricula for a six-week period during the summer to students currently participating in an Upward Bound project and to other students who meet the criteria for participation in Upward Bound, without regard to 34 CFR 645.10(b). Projects must establish a cooperative relationship with other Federal and non-Federal science and mathematics teaching and learning activities, if any, in their areas, including (1) activities funded under the Eisenhower Mathematics and Science Education programs, (2) activities and programs funded by the National Science Foundation (NSF), and (3) if there are any Federal laboratories or science facilities in the area, with those facilities participating in the Secretary of Energy's initiative to relate those facilities to elementary and secondary school science teaching. Examples of cooperative relationships include student identification and recruitment, combined staff and program enrichment activities, sharing of teaching strategies and approaches, and joint evaluation of project activities.

For Further Information Contact: Goldia Hodgdon, Division of Student Services, 400 Maryland Avenue SW. (room 3060 ROB–3), Washington, DC 20202–5249, (202) 708–4804.

Proposed Priority for the Talent Search Program

The Secretary proposes to establish an absolute priority for a fiscal year 1991 grant competition under the Talent Search Program. Under the priority, funds would be reserved for projects designed to attract seventh and eighth grade eligible participants in order to encourage them to complete high school and continue their education at the postsecondary level after graduation, without regard to 34 CFR 643.3(a)(5). The Secretary will not fund any projects that propose to serve only seventh and eighth graders. The Secretary will fund projects that propose to include seventh and eighth graders among the student population to be served.

For Further Information Contact: Goldia Hodgdon, Division of Student Services, 400 Maryland Avenue SW. (room 3060 ROB–3), Washington, DC 20202–5249, (202) 708–4804.

Proposed Priority for the Student Support Services Program

The Secretary proposes to establish an absolute priority for fiscal year 1991 grant competition under the Student Support Services program for projects operated by institutions of higher education whose activities are designed to assist students currently enrolled in 2-year institutions of higher education to secure admission to and financial assistance for enrollment in 4-year institutions of higher education.

The Secretary proposes to make these grants to currently-funded Student Support Services projects at two-year colleges to allow these projects to expand their services to include assisting students currently enrolled in these two-year institutions to secure admission and financial assistance for enrollment in four-year postsecondary programs. The Secretary proposes to limit this competition to currently funded projects at two-year institutions of higher education for the following reasons:

(1) These services are intended to complement the totality of services provided as part of a Student Support Services program and the Secretary does not believe that the funding of such services on a stand-alone basis effectively implements the Student Support Services program; and

(2) These institutions will have a group of students who have been

participating in Student Support Services for at least one academic year and who are immediate clients for the new services to be provided under this priority.

The legislation establishing the Student Support Services program allows students to receive the services provided by a Student Support Services project only from the institution at which they are enrolled. Only students enrolled at two-year colleges may receive services under this priority. Therefore, only two-year institutions may apply for assistance under this priority.

For Further Information Contact: May Weaver, Division of Student Services, 400 Maryland Avenue SW. (room 3060 ROB–3), Washington, DC 20202–5249, (202) 708–4804.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in room 3060, Regional Office Building #3, 7th and D Streets SW., Washington, DC between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Authority: 20 U.S.C. 1070d.

[Catalog of Federal Domestic Assistance Program Numbers: 84:047A, Upward Bound Program; 84.044A, Talent Search Program; and 84.042A, Student Support Services Program]

Dated: September 17, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90–22359 Filed 9–20–90; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
September 21, 1990

Part IV

Department of Agriculture

Rural Electrification Administration

7 CFR Part 1717

Wholesale Contracts for the Purchase and Sale of Electric Power and Energy; Proposed Rule

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1717

RIN 0572-AA41

Wholesale Contracts for the Purchase and Sale of Electric Power and Energy

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR chapter XVII, Part 1717, Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans, by adding a new subpart, Subpart J—Wholesale Contracts for the Purchase and Sale of Electric Power and Energy. The new subpart revises REA policies and procedures presently set forth in (a) REA Bulletin 111–1, Wholesale Contracts for the Purchase and Sale of Electric Energy; (b) REA Form 444, Wholesale Power Contract—Federated Cooperative; and (c) REA Form 444a, Supplemental Agreement; for implementing the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (the "RE Act") and typical REA loan and security documents which require each REA borrower to condition the effectiveness of any contract entered into for the sale or purchase of electric energy with which to operate its system upon the approval of the Administrator of REA.

Upon the publication of the final rule, REA Bulletin 111–1 will be rescinded, the existing version (6–1960) of REA Form 444 will be replaced, and REA Form 444a will no longer be used.

DATES: Written comments should be sent to REA, bearing a postmark or other comparable independent proof of submission, on or before November 20, 1990. REA requests that an original and three copies of all comments be submitted. Comments submitted via facsimile machine will not be accepted.

ADDRESSES: Submit written comments to Mr. Laurence V. Bladen, Financing Policy Specialist, Rural Electrification Administration, room 1272, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500. Comments may also be inspected at room 1272 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Laurence V. Bladen, Financing Policy Specialist, Rural Electrification Administration, room 1272, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number: (202) 382–9558.

SUPPLEMENTARY INFORMATION: Pursuant to the RE Act, REA hereby proposes to amend 7 CFR chapter XVII by amending Part 1717, Post-Loan Policies and Procedures Common to Insured and Guaranteed Electric Loans by adding Subpart J—Wholesale Contracts for the Purchase and Sale of Electric Power and Energy. This subject is presently treated in REA Bulletin 111–1 and REA Forms 444 and 444a.

This regulation will be issued in conformity with Executive Order 12291, Federal Regulations. It will not (1) have an annual effect on the economy of $100 million or more; or (2) result in a major increase in costs or prices for consumers, individuals, industries, Federal, state, or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and has been determined not to be "major".

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this proposed rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.* (1976)] and, therefore, does not require an environmental impact statement or an environmental assessment. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR part 3015 subpart V in 50 FR 47034, (November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

The reporting and/or recordkeeping requirements contained in this proposed rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) The OMB approval number for these requirements is 0572–0089.

The public reporting burden for this collection of information is estimated to average 6 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, Office of Information Resources Management, room 404–W, Washington, DC 20250 and to the Office of Management and Budget, Paperwork Reduction Project, (OMB# 0572–0089), Washington, DC 20503.

Background

This proposed regulation, 7 CFR part 1717, Subpart J—Wholesale Contracts for the Purchase and Sale of Electric Power and Energy is one component of a comprehensive rule-making project currently being undertaken by REA to improve the credit quality and credit worthiness of loans made by or guaranteed by REA under the RE Act to REA-financed power supply systems. While interrelated to the other components of this overall rule-making effort, this regulation covering wholesale power contracts can be implemented individually, and therefore is being promulgated as a separate rule.

Congress enacted the RE Act to institute a program designed to provide electric power to rural America. The RE Act created REA and authorizes REA to make and guarantee loans that will enable rural communities to obtain electric power. In response to the RE Act, rural communities across America formed non-profit electric distribution cooperatives. After REA-financed distribution cooperatives were formed, groups of cooperatives banded together to form central power supply cooperatives also known as generation and transmission cooperatives (G&T's). This second-level cooperative formation stemmed from an effort on the part of the distribution cooperatives to secure and more economically obtain a long-term source of wholesale power.

G&T's are owned and controlled by their members and are merely the means by which the members generate and transmit electric power for themselves rather than purchasing power and transmission service from another source. As a financial matter the structure is intended to and does operate as basically one organization with the financial strength of the G&T resting on the retail sales of the distribution members. However, instead of having one organization performing the generating, transmitting and distributing function, which is commonly the practice with investor owned utilities, the G&T engages in the first two on behalf of its members and the latter perform the distributing operation. Because of the separation of functions between the two organizations, the G&T and its members are bound by 35 year all requirements contracts which assure

the financial support of the members for the operations of the G&T. These contracts are relied upon by the Administrator in meeting the requirements of section 4 of the RE Act (7 U.S.C. 904).

Section 4 of the RE Act (7 U.S.C. 904) commits to the discretion of the Administrator the adequacy of security for loans made or guaranteed by REA. It has been the practice of every REA Administrator since 1950 to require as a condition for making or guaranteeing G&T loans pursuant to the RE Act, that the G&T shall obtain long-term contracts with its members obligating them to purchase all of their electric requirements to the extent that the G&T shall have power and energy available. The purpose of this requirement is to assure that the G&T will have a market for the power generated and transmitted by the REA-assisted facilities and thus be able to repay the loan. Thus the term of the contract is typically set to cover the period from the date of the first advance of funds by REA on the loan to the date that the last payment is due to be made on the loan, i.e. a date 35 years from the date of the last advance on the G&T loan. Accordingly, the contracts are often referred to as "35-year contracts" but are more accurately referred to as "life-of-loan contracts."

Life-of-loan contracts also provide assurance to REA that electric distribution borrowers will have an adequate source of reasonably priced dependable power with which to generate retail sales that will provide the primary source or revenue for repaying their own obligations to REA.

The practice of using life-of-loan, all-requirements contracts in the REA electric program is established by REA in the exercise of the REA Administrator's power and obligation under section 4 of the RE Act (7 U.S.C. 904) to obtain adequate security for the loan and to assure repayment within the time agreed upon.

REA last promulgated the above policy concerning wholesale power contracts on April 24, 1969 when it issued Bulletin 111–1 superseding a similar bulletin on the subject which had been issued on July 29, 1957. The REA form of wholesale power contract entitled *"Wholesale Power Contract—Federated Cooperative,"* (REA Form 444) and related supplement (REA Form 444a) were last officially revised in June of 1960. The structure of approximately 60 G&T's and their approximately 600 distribution member cooperatives is based on contracts very similar or identical to REA Forms 444 and 444a.

During the 1951 hearings before a Senate Subcommittee of the Committee on Appropriations, the all-requirements agreements were characterized by the REA Administrator as the principal security for REA loans and as tantamount to a guarantee. See Hearings before the Senate Subcommittee of the Committee on Appropriations on Agricultural Appropriations for 1951, 81st Cong., 2d Sess., pp. 1342 *et seq.* The complete text of a typical all-requirements contract was also placed into the record of those hearings at page 1409.

REA life-of-loan, all-requirements contracts have been repeatedly upheld by Federal and state courts in a series of decisions beginning in 1968. See for example: *Alabama Power Co.* v. *Alabama Electric Cooperative, Inc.*, 394 F.2d 672, *cert. denied*, 393 U.S. 1000 (1968); *Tri-State Generation and Transmission Assoc., Inc.* v. *Shoshone River Power, Inc.*, 874 F.2d 1346 (10th Cir. 1989); *Greensboro Lumber Co.* v. *Georgia Power Co.*, 844 F.2d 1538 (11th Cir. 1988); *United States* v. *Southwestern Electric Coop.*, 663 F.Supp. 538 (S.D.Ill. 1987); and *Upper Missouri G&T Electric Coop. Inc.* v. *McCone Electric Coop Inc.*, 503 P.2d 1001 (Mont.S.C. 1972). The holdings of those decisions are being ratified and confirmed by the proposed rule.

In recent years the costs of many G&T's have escalated significantly and, in some cases, have caused serious financial problems for the G&T and its members. At the beginning of fiscal year 1988, REA and 11 financial troubled electric borrowers who had received more than $7 billion in REA financial assistance.[1] As the costs of power from their G&T has risen, some distribution cooperatives have tried to sell their assets to neighboring investor-owned utilities, or to void their long-term contracts with their G&T in order to obtain power more cheaply from neighboring utilities. The withdrawal of any distribution cooperative from the G&T's system necessarily shifts the fixed costs of the electricity (represented by the debt service) to the other members of the G&T and raises the possibility of default with potentially disastrous results for the system.[2]

These repeated assaults on the REA life-of-loan, all-requirements contract, although unsuccessful, have proved costly to the rural electrification program. REA and the U.S. Department of Justice have had to commit substantial amounts of fiscal and staff resources in recent years to defending the all-requirements contract. Furthermore, these repeated assaults, coupled with defaults and bankruptcies by some borrowers, recently prompted one nationally know rating agency to downgrade several G&T's credit ratings and to place the National Rural Utilities Cooperative Finance Corporation, a private, not-for-profit cooperative association which serves as a source of additional financing for its members to supplement REA loans, on credit watch with negative implications and later downgrade its credit rating.[3] Ultimately, the resultant increased borrowing costs being incurred by these organizations are paid for by virtually al RE Act beneficiaries in the form of increased electric rates and hinder the Congressional policy that these electric systems be encouraged and assisted to satisfy their credit needs from their own organizations and other sources at reasonable rates and terms.

REA believes that by modifying its standard form of wholesale power contract to make explicit certain key features which courts have found to be implicit and by reaffirming the ciritical importance of such contracts to the continuing success of the REA program, REA can discourage unnecessary litigation, conserve government and borrower resources, and help to restore investor confidence in the G&T structure. REA also notes that the existing forms were last revised in 1960 and therefore REA is taking this opportunity to make certain editorial improvements and revisions.

The principal changes to "REA Forms 444 and 444a (rev. 6–60)" are as follows:

1. The recitals have been extensively revised to express in words several critical concepts that have previously been the unexpressed but implied intent of all interested parties as to the nature and purpose of their commitments. The recitals make it clear that the contract is the keystone of the G&T cooperative power supply arrangement and as such is being relied upon by REA and also by

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[1] Rural Electrification Administration, United States Department of Agriculture, *Report of the Administrator—Fiscal Year 1988*, (Washington, DC: USDA, 1989), 4. see generally, Congressional Research Service, The Library of Congress, *Rural Electric Cooperative Defaults: Origins, Current Status, and Legislative Implications*, (Washington, DC: LOC 1988), (#88–665 E).

[2] *Fuchs* v. *Rural Electric Convenience Cooperative, Inc., 858 F.2d 1210, 1212–1213 (7th Cir. 1988).*

[3] Robert R. Edmiston, "Credit Check: An investment banker tells what investors like and dislike about rural electric loans," *Rural Electrification*, November 1989, 26;

Bartell Nyberg, "Ute troubles generate shock wave: Wall Street questions viability of rural electric financing program," *Denver Post*, June 11, 1989, 1H.

private lenders. The recitals also recognize that the contract is being made for several purposes including:

(a) Supporting the financing of the G&T's long term investment in utility facilities;

(b) Supporting the development of an organizational structure, management team and staff by the G&T;

(c) Maximizing the economies of scale;

(d) Permitting long term planning; and

(e) Supporting long term power supply arrangements.

2. Language qualifying the G&T's obligation to provide all the electric power and energy required by each member of the G&T has been deleted to reinforce the concept expressed in the recitals that the parties intend a mutuality of obligation. REA is particularly interested in receiving comments on this proposed change.

3. The rate provision defines the G&T's revenue requirements in greater detail than prior editions of the contract did. For example, the proposed contract explicitly recognizes more modern financing arrangements, such as leases and power purchase contracts from independent power suppliers, which G&T's are now using to meet their power supply arrangements in addition to traditional G&T owned sources. The new provision on rates also recognizes the obligation of the members to pay rates which enable the G&T to perform its obligations on loan documents, e.g., to meet financial ratios.

4. A new paragraph 5 adds an express "take or pay" concept to the previously explicit all-requirements concept found in the general rate making provision contained in paragraph which is being changed only slightly from the 1960 version of REA Form 444. The "take or pay" concept, sometimes popularly referred to as a "hell or high water" provision, expressly assures that each member of the G&T makes payment to the G&T sufficient to cover that member's proportionate share of the costs of the G&T regardless of whether or not power and energy is available to and received by the member under the contract. The "take or pay" provision is intended to augment the all-requirements provision in cases where, for whatever reason, no power or energy is being provided to a member. In such circumstances, an additional mechanism for allocating the otherwise joint and several liability of the members under the all-requirements provision is provided to facilitate action by the G&T against any member that dishonors that commitment for any reason. The new, proposed Form 444 is structured to permit G&T's to formulate, subject to REA's approval on a case by case basis, their own standards for "take or pay" allocations under paragraph 5. REA believes that a uniform proportionality standard may not be in the best interests of all G&T's in all circumstances. REA invites comments on the desirability of such an approach versus a uniform method. REA recognizes that some authorities distinguish "take or pay" contracts from "hell or high water" contracts—confining the former to situations where power is in fact available and the latter to circumstances where the power supply has not materialized, e.g., where construction of a nuclear plant has been abandoned. The terms, however, are used interchangeably in this regulation.

5. A new provision has been added to permit the Administrator to levy special assessments against the members directly in the event that the G&T defaults on obligations secured under the REA common mortgage. A proration formula for levying the assessment is set forth in the contract. REA and the other mortgagees on the common mortgage would, as third party beneficiaries of the contract, have a right to proceed directly against any member which did not pay its assessment. Such lenders could exercise rights to offset against any sums held by them, including the proceeds of loan advances.

6. REA has adopted, with modifications, a provision which REA has been using on a case by case basis which expressly states that no member of the G&T will, without the consent of the G&T and REA, enter into a merger, consolidation or corporate reorganization, dissolve or otherwise sell, lease, transfer or dispose of all or substantially all of its assets. As a result of experiences REA gained from requiring this type of provision on a trial basis, REA proposes to limit the right of the G&T to withhold its consent and thereby block a member's transaction. If the member pays a portion of the G&T's indebtedness and otherwise protects the other members and the G&T from the adverse effects of the transaction, then the consent of the G&T is not required. REA intends payments made under this provision would, to the extent that they are attributable to payments on the member's proportional share of the G&T's indebtedness, be used by the G&T to prepay its loans.

7. A remedies provision has been added.

8. A paragraph concerning assignments has been added. The G&T financing structure depends upon the assignment of the contract to secure the G&T's indebtedness. In the event that the lenders to the G&T need to liquidate such collateral, it is contemplated that the contracts will ultimately be transferred and rates will be set in accordance with any applicable laws.

9. A paragraph explicitly recognizing the rights of REA and other lenders as intended third party beneficiaries of the contract has been added.

10. A provision dealing with possibly conflicting laws has been added. REA believes that in most instances the efforts by the Federal Energy Regulatory Commission and others to encourage alternative sources of generation can be reconciled with REA's practices and the objectives of the RE Act. Under this provision, the G&T and its members are obligated to use their best efforts to do so rather than attempt to use alternative generating sources to reduce the amount of power or energy taken under the contract. For an illustration of how such a reconciliation was achieved by a G&T and its members in the context of purchase and sale requirements for qualifying co-generating facilities under the Public Utilities Regulatory Policy Act of 1978, 16 U.S.C. 824a, see *Oglethorpe Power Corporation, et al.* 32 F.E.R.C. ¶ 61,103 (1985) and ¶ 61,609 (1986), *both aff'd sub nom, Greensboro Lumber Company* v. *Federal Energy Regulatory Commission*, 825 F.2d 518 (D.C.Cir 1987).

11. The substance of the supplemental agreement (REA Form 444a) which conferred upon the Administrator of REA a right to enforce the contract against the member has been moved into the main body of the contract thus consolidating Form 444 and Form 444a. Because the proposed REA 444 expressly makes REA an intended third party beneficiary of the contract and confers enforcement rights upon the Administrator, REA believes that a separate instrument, such as Form 444a, would be redundant.

List of Subjects in 7 CFR Part 1717

Administrative practice and procedure, Electric rates, Electric utilities, Guaranteed loan program—Energy, Loans programs, Power supply contracts, Wholesale power contracts.

In view of the above, REA proposes to amend 7 CFR chapter XVII, part 1717 as follows:

PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1717 continues to read as follows:

Authority: 7 U.S.C. 901–950b; title I, subtitle D, Sec. 1402, Pub. L. 100–203; Delegation of Authority by the Secretary of Agriculture, 7

CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

2. A new subpart J consisting of §§ 1717.450 through 1717.459 is added to read as follows:

Subpart J—Wholesale Contracts for the Purchase of Sale of Electric Power and Energy

Sec.
1717.450 Purpose.
1717.451 Policy.
1717.452 Definitions and Rules of Construction.
1717.453 Administrator's Approval of Power Supply Arrangements Necessary.
1717.454 Power Supply Contracts with Power Supply Borrowers.
1717.455 Other Power Supply Contracts.
1717.456 Method for Requesting REA Approvals Required Under this Subpart.
1717.457 Rights of Other Lenders.
1717.458 Forms.
1717.459 Existing Contracts.
Appendix A to Subpart J—Wholesale Power Contract—Federated Cooperative.

Subpart J—Wholesale Contracts for the Purchase and Sale of Electric Power and Energy

§ 1717.450 Purpose.

This subpart contains the general regulations of REA regarding wholesale power contracts which are necessary to meet the requirements of section 4 of the RE Act (7 U.S.C. 904) that the Administrator obtain adequate security for loans and to assure repayment within the time agreed. This subpart also contains general regulations for administering provisions in REA loan documents which require that the effectiveness of any contract entered into by a borrower for the sale or purchase at wholesale of electric power or energy with which to operate its system be made subject to REA approval.

§ 1717.451 Policy

(a) It is the general policy of REA to require, as a condition of making or guaranteeing any loan to a power supply borrower pursuant to the RE Act, or to approving major transactions being undertaken by a power supply borrower, that:

(1) The power supply borrower shall first obtain contracts with its members obligating them to purchase all of their electric requirements from the power supply borrower;

(2) Such contracts be assigned and pledged as security for REA loans and other obligations secured under the REA mortgage, and

(3) Such contracts continue until such loans and obligations have been repaid in full.

(b) Standardization of the form of such contracts facilitates the administration of this national policy.

§ 1717.452 Definitions and rules of construction.

(a) *Definitions.* For the purpose of this subpart:

Administrator means the Administrator of REA.

Borrower means a corporation engaged, or intending to become engaged, in the generation, transmission or distribution of electricity that has outstanding obligations to REA as a result of loans or guarantees made pursuant to the RE Act.

Loan means a loan which has been made, insured or guaranteed by REA pursuant to the RE Act.

Loan Documents means, collectively, the REA mortgage and any agreement between a borrower and REA providing for or otherwise concerning one or more REA loans.

Power Supply Borrower means a borrower engaged in the wholesale of electric power and energy to distribution members pursuant to REA-approved power supply contracts.

Power Supply Contract means any contract entered into by a borrower for the sale or purchase, at wholesale, of electric energy with which to operate its system.

RE ACT means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

REA means the Rural Electrification Administration, an agency of the United States Department of Agriculture.

REA Mortgage means, collectively, all instruments creating a lien on or security interest in the borrower's assets in connection with REA loans.

(b) *Rules of construction.* Unless the context shall otherwise indicate, the terms defined in § 1717.452(a) hereof include the plural as well as the singular, and the singular as well as the plural. The words "herein," "hereunder," and words of similar import refer to this subparagraph as a whole. "Includes" and "including" are not limiting and "or" is not exclusive.

§ 1717.453 Administrator's approval of power supply arrangements necessary.

No borrower shall execute any:

(a) Power supply contract;

(b) Interconnection agreement;

(c) Interchange agreement;

(d) Wheeling agreement;

(e) Similar agreement; or

(f) Any amendment to paragraph (a), (b), (c), (d) or (e) of this section unless the same has been made expressly subject to REA approval or has been reviewed and approved by REA in writing prior to execution.

This requirement applies regardless of whether or not the borrower is a seller or purchaser of the services to be furnished under any of the foregoing contracts or agreements, and regardless of whether or not a Federal power agency is a party to any of them.

§ 1717.454 Power supply contracts with power supply borrowers.

Generally, power supply contracts entered into between power supply borrowers and their members should:

(a) Be consistent with the purchased power needs of the borrowers;

(b) Provide for the security requirements of loans secured under the REA mortgage; and

(c) Be in substantially the form prescribed from time to time by REA pursuant to § 1717.458 of this subpart, with only such minor modifications and revisions as the Administrator in his discretion may approve and as are not inconsistent with § 1717.451(a) and § 1717.451(b).

§ 1717.455 Other power supply contracts.

Power supply contracts entered into with any supplier not owned or controlled by REA-financed borrowers should:

(a) Provide for an adequate present and future supply of high quality service, including points of delivery;

(b) Provide for termination of the contract upon due notice in the event of a rate increase or other change in the contract not in the interest of the borrower, but with adequate assurance of continued supply until an alternative source can be secured;

(c) Be free of restrictive provisions with respect to the availability or use of power;

(d) Be for terms appropriate to the borrowers' anticipated needs and afford reasonable protection of consumer rates and interests;

(e) Be otherwise consistent with loan security requirements; and

(f) In cases where prior REA approval has not been obtained, contain provisions making them effective only upon the approval of the Administrator or his designated representative.

§ 1717.456 Method for requesting REA approvals required under this subpart.

Borrowers requesting REA approvals required under § 1717.453 should submit the following information to the REA Area Director having jurisdiction over the borrower:

(a) Three copies of the executed document for which approval is sought;

(b) One copy of the economic analysis, financial forecast, or cost benefit analysis (as the case may be) used to determine feasibility of entering into the agreement for which approval is sought;

(c) A certified board resolution approving the document described in § 1717.456(a) and authorizing its execution by officers of the borrower; and

(d) A transmittal letter requesting REA approval, summarizing the transaction, and stating whether or not the arrangement complies with the requirements of this subpart.

(Approved by the Office of Management and Budget under control number 0572-0089)

§ 1717.457 Rights of other lenders.

(a) Nothing contained in this subpart is intended to alter or affect any rights belonging to any party, other than REA, who is secured by an REA mortgage.

(b) In considering requests for approvals pursuant to this subpart, REA is acting for its sole benefit and not for the benefit of any other party secured by an REA mortgage.

§ 1717.458 Forms

(a) Power supply contracts between power supply borrowers and their members shall contain provisions prescribed by REA from time to time and be in substantially the form set forth at the end of this section as Appendix A—"Wholesale Power Contract—Federated Cooperative," such minor modifications and revisions as the Administrator in his discretion may approve on a case by case basis and as are not inconsistent with § 1717.415(a) and § 1717.451(b).

(b) REA may prescribe standard forms of requests and certifications to be used in connection with submissions filed with REA pursuant to this subpart. REA may also prescribe standard forms for use in connection with contracts and other documents being approved by REA under this subpart.

(c) Single copies of REA forms and publications cited in this subpart are available from Administrative Services Division, Rural Electrification Administration, room 0174 South, United States Department of Agriculture, Washington, DC 20250–1500. Telephone 202–382–9551. These REA forms and publications may be reproduced.

§ 1717.459 Existing contracts.

(a) Nothing contained in this subpart invalidates, terminates or rescinds any existing power supply contract which has been previously approved by REA and is in effect on (insert date 30 days after the date the final rule is published in the Federal Register).

(b) This subpart supersedes REA Bulletin 111–1, Wholesale Contracts for the Purchase and Sale of Electric Energy.

Dated: September 5, 1990.

Gary C. Byrne,

Administrator.

BILLING CODE 3410-16-M

Appendix H to Subpart J—Wholesale Power Contract—Federated Cooperative

WHOLESALE POWER CONTRACT - FEDERATED COOPERATIVE

AGREEMENT made as of _____ between _____, a corporation organized and existing under the laws of the State of _____ _____ (the **"Seller"**) and _____ _____, its successors and assigns, a corporation organized and existing under the laws of the State of _____, (the **"Member"**).

WHEREAS, the Seller proposes to construct, or has constructed, an electric generating plant(s) or transmission system or both, and may purchase or otherwise obtain, or has purchased or otherwise obtained electric power and energy for the purpose, among others, of supplying electric power and energy to borrowers of loans made or guaranteed by the United States of America (the **"Government"**) acting through the Administrator (the **"Administrator"**) of the Rural Electrification Administration (**"REA"**) which are or may become members of the Seller; and

WHEREAS, the Seller has entered into or is about to enter into agreements for the sale of electric power and energy similar in form and substance to this Agreement in order to further the purposes of the Rural Electrification Act of 1936, as amended (7 U.S.C. § 901 *et seq.*) (the **"Rural Electrification Act"**) as required by regulations of the REA pursuant to 7 CFR 1717 Subpart J, with other members and may enter into similar agreements with other such borrowers who may become members; and

WHEREAS, the Member desires to purchase from the Seller, and the Seller desires to sell, electric power and energy from the Seller on terms and conditions herein set forth; and

WHEREAS, in reliance upon the commitments of the Seller herein set forth, the Member is entering into this Agreement and the Member acknowledges by entering into this Agreement that the Seller (i) has obtained and will obtain financing, (ii) has invested and will in the future invest in plant and facilities, (iii) has developed and will continue to develop an organizational structure, management team and staff, (iv) has engaged and will continue to engage in planning, and (v) has made and will continue to make commitments relating to long-term power supply arrangements, all on the basis of the cash flow produced by this Agreement and similar agreements between the Seller and its other members; and

WHEREAS, this Agreement and payments due to the Seller under this Agreement are or shall be pledged and assigned to secure indebtedness owed to the Government and, where appropriate, such other lenders (if any) with whom the Government has agreed pursuant to § 306 of the Rural Electrification Act (7 U.S.C. § 936) to share collateral for loans made or guaranteed by them from time to time to the Seller (collectively, the **"Loans"**), and such Loans are or will be evidenced by promissory notes (collectively, the **"Notes"**);

WHEREAS, REA and such other lenders are relying on the execution and performance of this Agreement and similar agreements between the Seller and other members of the Seller to assure that (i) the Loans are repaid in accordance with their respective terms, (ii) the purposes of the Rural Electrification Act are carried out by the Seller and the Member, and (iii) that Loans made or guaranteed by the Administrator are adequately secured as required by section 4 of the Rural Electrification Act (7 U.S.C. § 904), and by executing this Agreement the Seller and the Member acknowledge that reliance;

WHEREAS, REA is also relying on the execution and performance of this Agreement and similar agreements between the Seller and other members of the Seller to assure that loans made by REA to the Member (i) are repaid in accordance with their respective terms and (ii) are adequately secured, both as required by the Rural Electrification Act, and by executing this Agreement the Seller and the Member acknowledge that reliance; and

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the parties hereto agree as follows:

1. **General**. The Seller shall sell and deliver to the Member and the Member shall purchase and receive from the Seller all electric power and energy which the Member shall require for the operation of the Member's system; provided, however, that the Member shall have the right to continue to purchase electric power and energy under any existing contract(s) with a supplier other than the Seller during the remainder of the term thereof, including such renewals or extensions as the Administrator may approve in writing. The Member shall terminate, if the Seller shall, with the approval or at the direction of the Administrator, so request, any such existing contract or contracts with a supplier other than the Seller at such times as it may legally do so, provided the Seller shall have sufficient electric power and energy and facilities for the Member.

2. **Electric Characteristics and Delivery Point(s)**. Electric power and energy to be furnished hereunder shall be alternating current, _____ _____ phase, sixty hertz. The _____ shall make and pay for all final connections between the systems of the Seller and the

Member at the point(s) of delivery. The point(s) of delivery, delivery voltage and initial capacity shall be as set forth in "*Electric Characteristics and Delivery Points Schedule A*," attached hereto and made a part hereof. The Member agrees that the characteristics and delivery points on such Schedule A may be revised to include such other point or points as may be agreed upon by the Seller and the Member by an appropriate amendment to such Schedule A; provided, however that no such revision shall be effective unless approved in writing by the Administrator.

3. **Substation**. The _____ shall install, own, and maintain the necessary substation equipment at the point(s) of connection. The _____ shall own and maintain switching and protective equipment which may be reasonably necessary to enable the Member to take and use the electric power and energy hereunder and to protect the system of the Seller. Meters and metering equipment shall be furnished, maintained and read by the Seller at each delivery point. Unless the Seller and the Member shall mutually agree upon an alternative location, meters and metering equipment shall be located at the point of delivery on the low voltage side of such transforming equipment.

4. **Rate**. (a) The Member shall pay the Seller for all electric power and energy furnished hereunder at the rate and on the conditions set forth in "*Rate Schedule B*," attached hereto and made a part hereof.

(b) The Board of Directors of the Seller at such intervals as it shall deem appropriate, but in any event not less frequently than once in each year, shall review the rate for electric power and energy furnished hereunder and under similar agreements with the other members and, if necessary, shall revise such rate so that it shall produce revenues which shall be sufficient, but only sufficient, with the revenues of the Seller from all other sources, (i) to meet the cost of the operation and maintenance (including without limitation, replacements, rents, fuel, insurance, depreciation and amortization, taxes and administrative and general overhead expenses) of the generating plant(s), transmission system and related facilities of the Seller, (ii) to meet the cost of any power and energy purchased for resale by the Seller, (iii) to meet the cost of transmission service, (iv) to make required payments on account of principal and interest on the Notes and on all other indebtedness of the Seller, (v) to assure compliance with the terms of all contracts, mortgages, security agreements, pledges and other obligations undertaken by the Seller in order to acquire, construct, operate or maintain the system of the Seller, and (vi) to provide for the establishment and maintenance of reasonable margins and reserves. The preceding clauses (i) through (vi) are hereinafter collectively referred to as the Seller's "**Revenue Requirements**." The Seller shall cause a notice in writing to be given to the Member and to the other members of the Seller and to the Administrator which shall set out all the proposed revisions of the rate with the effective date thereof, which shall be not less than thirty (30) nor more than forty-five (45) days after the date of the notice, and shall set forth the basis upon which the rate is proposed to be adjusted

and established. The Member agrees that the rate from time to time established by the Board of Directors of the Seller shall be deemed to be substituted for the rate herein provided and agrees to pay for electric power and energy furnished by the Seller to it hereunder after the effective date of any such revisions at such revised rates; provided, however, that no such revision shall be effective unless approved in writing by the Administrator.

5. **Take or Pay**. In addition to its other obligations hereunder and notwithstanding any other provision hereof, the Member shall pay to the Seller from time to time amounts sufficient, but only sufficient, with revenues of the Seller from all other sources, to meet the Member's share of the Seller's Revenue Requirements in a timely manner, whether or not electric power and energy has or is being provided to the Member hereunder and whether or not the Seller's facilities or any part thereof are completed, operable, operating or retired and notwithstanding the suspension, interruption, interference, reduction or curtailment of construction or operation of such facilities in whole or in part for any reason whatsoever and whether or not the Seller is able to purchase or otherwise obtain electric power and energy from any source. Such payments by the Member shall not be subject to any reduction, whether by offset, recoupment or otherwise, and shall not be conditioned upon performance by the other members of the Seller or the Seller under this or any other agreement or instrument. For the purpose of this Paragraph 5, "share of the Seller's Revenue Requirements" shall mean the Member's proportionate share of all the Seller's revenue requirements referred to in Subparagraph 4(b) above which may be allocated in the manner as the Seller may, with the written approval of the Administrator, reasonably determine. Such method of allocation shall take into account the Member's actual and estimated peak demand for electric power and such other factors as the Seller considers reasonable.

6. **Special Assessment**. Notwithstanding any other provision hereof, in the event that the Seller should default on any of the payments due on the Notes, whether upon acceleration or otherwise, the Member shall remit directly to the Administrator its share of the amount needed to cure such default within two (2) business days of receipt of a demand from the Administrator for the same. The Member's share in such circumstances (the "Special Assessment") shall be assessed by the Administrator as follows: The Administrator will send a statement to the Member notifying the Member that the Seller has defaulted on one or more of the Notes, setting forth the past due amounts on the Notes, and setting forth the Member's share of such amounts which shall be determined according to the following formula:

Member's peak demand in kW purchased from Seller only during the preceding calendar year divided by the Seller's total noncoincident peak demand in kW from sales to the Member and all other members of the

Seller during the preceding calendar year times the past due amounts on the Notes.

The Administrator may levy Special Assessments from time to time in the manner described above as often as he may, in his discretion, deem necessary to assure that the Notes are repaid in accordance with their respective terms. The Member acknowledges that the Administrator and other holders of the Notes shall have the right to offset the Member's Special Assessment against any assets of the Member in their possession. The Member's obligations under this paragraph are in addition to its other obligations under this Agreement, are absolute, unconditional and irrevocable so long as any of the Notes remain outstanding.

7. **Meter Readings and Payment of Bills**. The Seller shall read meters monthly. Electric power and energy furnished hereunder shall be paid for at the office of the Seller in _____ monthly within fifteen (15) days after the bill therefor is mailed to the Member. If the Member shall fail to pay any such bill within such fifteen-day period, the Seller may discontinue delivery of electric power and energy hereunder upon fifteen (15) days' written notice to the Member of its intention so to do.

8. **Meter Testing and Billing Adjustment**. The Seller shall test and calibrate meters by comparison with accurate standards at intervals of twelve (12) months. The Seller shall also make special meter tests at any time at the Member's request. The costs of all tests shall be borne by the Seller; provided, however, that if any special meter test made at the Member's request shall disclose that the meters are recording accurately, the Member shall reimburse the Seller for the cost of such test. Meters registering not more than two percent (2%) above or below normal shall be deemed to be accurate. The readings of any meter which shall have been disclosed by test to be inaccurate shall be corrected for the ninety (90) days previous to such test in accordance with the percentage of inaccuracy found by such test. If any meter shall fail to register for any period, the Member and the Seller shall agree as to the amount of energy furnished during such period and the Seller shall render a bill therefor. The Seller, at its expense, shall promptly adjust, repair or replace any meter that shall have been disclosed by test to be inaccurate or that it learns has failed.

9. **Notice of Meter Reading or Test**. The Seller shall notify the Member in advance of the time of any meter reading or test so that the Member's representative may be present at such meter reading or test.

10. **Right of Access**. Duly authorized representatives of either party hereto shall be permitted to enter the premises of the other party hereto at all reasonable times in order to carry out the provisions hereof.

11. **Continuity of Service**. The Seller shall use reasonable diligence to provide a constant and uninterrupted supply of electric power and energy hereunder. If the supply of electric power and energy shall fail or be interrupted, or become defective through act of God or of the public enemy, or because of accident, labor troubles, or any other cause beyond the control of the Seller, the Seller shall not be liable therefor or for damages caused thereby.

12. **Transfers by the Member**. During the term of this Agreement, so long as any of the Notes are outstanding, the Member will not, without the approval in writing of the Seller and the Administrator, take or suffer to be taken any steps for reorganization or to consolidate with or merge into any corporation, or to sell, lease or transfer (or make any agreement therefor) all or a substantial portion of its assets, whether now owned or hereafter acquired. Seller will not unreasonably withhold or condition its consent to any such, reorganization, consolidation, or merger, or to any such sale, lease or transfer (or any agreement therefor) of assets. Seller will not withhold or condition such consent except in cases where to do otherwise would result in rate increases for the other members of the Seller or impair the ability of the Seller to repay its Loans in accordance with their terms. Notwithstanding the foregoing, the Member may take or suffer to be taken any steps for reorganization or to consolidate with or merge into any corporation or to sell, lease or transfer (or make any agreement therefor) all or a substantial portion of its assets, whether now owned or hereafter acquired without the Seller's consent, so long as the Member shall pay such portion of the outstanding indebtedness on the Seller's Notes as shall be determined by the Seller with the prior written consent of the Administrator and shall otherwise comply with such reasonable terms and conditions as the Administrator and Seller may require either (i) to eliminate any adverse effect that such action seems likely to have on the rates of the other members of the Seller or (ii) to assure that the Seller's ability to repay the Loans and other obligations of the Seller in accordance with their terms is not impaired. Any payment owed under clause (ii) of the preceding sentence which represents a portion of the Seller's indebtedness on Notes shall be paid by the Member directly to the holders of such Notes for application by them as prepayments in accordance with the loan documents relating thereto.

13. **Remedies**. The failure or threatened failure of the Member to comply with the terms of this Agreement will cause irreparable injury to the Seller and to the Government which cannot properly or adequately be calculated or compensated by the mere payment of money. Therefore, if the Member breaches or threatens to breach this Agreement, the Seller or the Administrator, or either of them, in addition to any other remedies that may be available under law or at equity, shall have the right to obtain from any court of competent jurisdiction, a decree enjoining such breach or threatened breach and providing that the terms of this Agreement be specifically enforced.

14. **Assignments**. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties, except that this Agreement may not be assigned by either party unless (i) prior consent to such assignment is given in writing both by the other party and the Administrator or (ii) such assignment has been approved by the Administrator in writing and is incident to a merger or consolidation with, or transfer of all or substantially all of the assets of the transferor to, another person or entity which shall, as a part of such succession, assume all the obligations of the transferor under this Agreement. Any assignment made without a consent required hereunder shall be void and of no force or effect as against the non-consenting party and the Administrator. Notwithstanding the foregoing, a party, with the prior written consent of the Administrator and without the other party's consent, may assign and pledge its interests in this Agreement as security for any obligation secured by a mortgage on its system assets without limitation on the right of the mortgagees under such mortgage to further assign this Agreement.

15. **Third Party Beneficiaries**. The Administrator and the other lenders to the Seller are intended third party beneficiaries of this Agreement. However, the consents of such other lenders need not be obtained before amending, revising, or consolidating any of the provisions of this Agreement except in a case where the terms of an agreement between such other lender and the Seller or the Member, as the case may be, expressly require such consent.

16. **Miscellaneous**. The parties recognize that the terms and conditions of this Agreement have been prescribed by the Government in furtherance of the objectives of the Rural Electrification Act. In the event that any other Federal statute or regulation now in effect or subsequently in effect may require the Member to obtain electric power or energy in a manner inconsistent with this Agreement, the Member and the Seller will cooperate in using their best efforts to give full effect to the provisions of this Agreement requiring the Member to purchase and receive from the Seller all electric power and energy which the Member shall require for the operation of the Member's system. Nothing contained in this Agreement shall be construed as a modification or waiver of (i) the right of the Government to preempt state or local laws when authorized to do so under the United States Constitution or any applicable Federal statute, including the Rural Electrification Act, currently in effect or subsequently ratified or enacted or (ii) provisions in any other agreements between the Administrator and the Seller or the Member, as the case may be.

17. **Right of Administrator to Enforce Agreement**. The Seller, the Member and the Administrator agree that (i) if the Member shall fail to comply with any provision of this Agreement, the Seller, or the Administrator, if the Administrator so elects, shall have the right to enforce the obligations of the Member under the provisions of this Agreement and (ii) if the Seller shall fail to comply with any provision of this Agreement, the Member, or the Administrator, if the Administrator so elects,

shall have the right to enforce the obligations of the Seller under the provisions of this Agreement. Such enforcement may be by instituting all necessary actions at law or suits in equity, including, without limitation, suits for specific performance. Such rights of the Administrator to enforce the provisions of this Agreement are in addition to and shall not limit the rights which the Administrator shall otherwise have as third party beneficiary of this Agreement or pursuant to the assignment and pledge of this Agreement and the payments required to be made thereunder as referred to in Paragraphs 13 and 14 or otherwise. The Government shall not, under any circumstances, assume or be bound by the obligations of the Seller or Member under this Agreement except to the extent the Government shall agree in writing to accept and be bound by any such obligations in whole or in part.

18. **Term**. This Agreement shall become effective only upon approval in writing by the Administrator and shall remain in effect until _____, and thereafter until terminated by either party's giving to the other not less than six (6) months' written notice of its intention to so terminate. Subject to the provisions of Paragraph 1 hereof, service under this Agreement and the obligation of the Member to pay therefor shall commence upon the Seller's making service available to the Member hereunder.

EXECUTED as of the day and year first above mentioned.

_____
SELLER

ATTEST: By_____
PRESIDENT

_____
SECRETARY

_____
MEMBER

ATTEST: By_____
PRESIDENT

_____
SECRETARY

REA FORM 444 (Rev. 9-90)

[FR Doc. 90-22118 Filed 9-18-90; 9:11 am]
BILLING CODE 3410-16-C

federal register

Friday
September 21, 1990

Part V

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 50 et al.

Prepayment of a HUD-Insured Mortgage by an Owner of Low Income Housing; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 50, 221, 236, 241, and 248

[Docket No. R-90-1385; FR 2450-F-04]

RIN 2502—AE34

Prepayment of a HUD-Insured Mortgage by an Owner of Low Income Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule sets forth HUD's procedures governing the prepayment of a multifamily mortgage by an owner (mortgagor) of eligible low income housing, in cases where, but for the provisions of the Housing and Community Development Act of 1987 (the "1987 Act"), Public law 100–242, enacted February 5, 1988, the owner would be free to prepay its mortgage without HUD's approval or would, within one year, become eligible to prepay without HUD's approval. The rule implements legislative provisions governing the prepayment of HUD-insured or HUD-held mortgages that are contained in title II, subtitle B of the 1987 Act, entitled "Preservation of Low Income Housing," as amended by sections 1021 through 1027 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (the "1988 Amendments"), Public Law 100–628, 102 Stat. 3224, enacted November 7, 1988 and by sections 201 through 203 of the Department of Housing and Urban Development Reform Act of 1989 (the "1989 Amendments"), Public Law 101–235, 103 Stat. 1987, enacted December 15, 1989. The 1989 Amendments contain a provision for the repeal of subtitle B on September 30, 1990, at which time this final rule will be terminated or revised to reflect the then-current law. Congress enacted these provisions as an interim measure to ensure that affordable multifamily housing units are preserved to the maximum extent practicable for lower-income families, and that displacement of such families is minimized, while the public and private sectors work together to find long-term responses to the potential loss of affordable housing.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Kevin J. East, Office of Multifamily Housing Management, Department of Housing and Urban Development, 451—7th Street, SW., Washington, DC 20410. Telephone (202) 708–2300. TDD Number, (202) 708–4594. [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502–0378. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, *Findings and Other Matters.* Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW, room 10276, Washington, DC 20410; and to the Paperwork Reduction Project Act (Re: OMB Control Number 2502–0378), Office of Management and Budget, Washington, DC 20503.

On April 5, 1988, the Department published an interim rule at 53 FR 11224 implementing title II, subtitle B of the 1987 Act ("title II"). This final rule replaces the interim rule.

On May 20, 1988 and July 14, 1988, the Assistant Secretary for Housing-Federal Housing Commissioner (the "Commissioner") issued instructions to HUD field offices concerning the procedures for filing notices of intent and plans of action under the interim rule and for field office review of such notices of intent and plans of action.

1. Discussion of Public Comments and Changes Made in the Final Rule

The Department received 22 public comments in response to the April 5, 1988 interim rule. There follows a discussion of these comments and a review of the changes made in the final rule both in response to public comments and internal departmental discussions. The final rule also implements changes to title II made by the 1988 Amendments and 1989 Amendments. These changes are also identified and discussed below. Except where the comments do not pertain to specific sections of the interim rule, these comments are discussed in the context of the specific provisions of the final rule listed below.

General. Three commenters asserted that title II and the interim rule result in a taking of property in violation of the Constitution. Although title II may impinge on preexisting contractual rights, it allows HUD to approve prepayment where the statutory standards can be met, and provides that HUD can agree to incentives for owners in cases where the statutory standards cannot be met. Thus, the implications of the rule, if any, under the Fifth Amendment's Due Process Clause and Takings Clause result from the statute itself, and not the Interim Rule.

The constitutional aspects of title II are currently being litigated in two related lawsuits, *Thetford Properties IV Limited Partnership* v. *HUD,* Civil Action No. 88–869–Civ–5, E.D.N.C., filed October 25, 1988 (Action dismissed for failure to exhaust administrative remedies, May 26, 1989), and *Thetford Properties IV Limited Partnership* v. *U.S.,* No. 620–88C, Ct. Cl., filed October 25, 1988, and in *Orrego* v. *HUD,* Civil Action No. 88–C–1567, N.D. Ill. (Order granting plaintiffs' motion for summary judgment granted December 7, 1988.) In *Orrego,* the Court held that title II did not violate the Due Process Clause and did not constitute a compensable taking. With regard to the latter issue, the Court noted that the project's owner will continue to receive reasonable rentals and maintain ownership of the property as it had before the statute was enacted; only its right to prepay the mortgage and remove itself from HUD's regulatory control was affected by the statute. The Court also based its holding on its assumption that Congress retains an "enduring" right to amend the federal housing programs which it had authorized.

This issue is addressed further in the discussion below on Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights,* under "Findings and Other Matters."

A commenter suggested that tenants in any project that is or will constitute eligible low income housing, as defined in § 248.201 of the iterim rule, be notified of that fact. The applicability of part 248 to a project does not automatically have any impact on the project's tenants. It is only when a project owner files a notice of intent and a plan of action that part 248 has any impact on the tenants, and HUD does not know whether an owner intends to file a notice of intent until the owner actually does so. Therefore, the Department does not think that any useful purpose would be served by notifying tenants that their project's mortgage is or will become subject to the final rule. The final rule includes a new provision at § 248.218, entitling tenants in projects for which a plan of

action is being negotiated to have a meaningful opportunity to comment upon a summary of the plan of action before approval of the plan of action by the Department.

The Department has determined that it is appropriate to provide protections against unjustified evictions of current tenants. Accordingly, § 248.221(a) has been amended to provide that, in approving a plan of action that involves the termination of low income affordability restrictions, HUD will require the owner to comply with the eviction procedures of 24 CFR part 247. The Department also intends to ensure, when it makes determinations under §§ 248.223(a)(1), 248.233(d)(3) and 248.241(a)(1), that tenants will be protected against unjustified evictions.

The 1989 Amendments made changes to section 229 of the National Housing Act, which governs termination of mortgage insurance. For eligible low income housing, termination of insurance is now subject to the plan of action requirements of title II. Appropriate additions to the part 248 regulations have been made to reflect this change. Likewise, for projects subject to section 250(a) of the National Housing Act, 12 U.S.C. 1715z–15(a), the requirements of section 250(a) must be met prior to a termination of the mortgage insurance contract. New §§ 221.753 and 236.254 have been added to parts 221 and 236 to reference both the title II and the section 250(a) requirements.

Section 248.101.—One commenter stated that the wording of § 248.101(a) indicates an inclination on the part of the Department not to carry out the intent of Congress. The Department plans to implement title II in a manner that is fully consistent with Congress' intent. The statute is designed to permit prepayment where mortgagors can meet the standards set forth in section 225(a) thereof, and the Department will approve prepayments that meet such standards.

Section 248.103—Four commenters stated that section 235 of the 1987 Act requires the rule to be effective as of November 1, 1987. The Government has not appealed the court's adverse ruling in *Orrego* v. *HUD, supra,* on this issue, and accordingly the final rule states the requirements of part 248 apply to any project that is eligible low income housing on or after November 1, 1987.

Section 248.105—A commenter asked what effect the expiration date of the statute will have on actions taken prior to, or pending as of, that date. In response to this inquiry, the final rule includes a statement that plans of action approved prior to September 30, 1990 will continue in full force and effect past that date. The Department's handling of plans of action which have not been approved as of September 30, 1990 will depend on the status of legislation replacing title II in effect at that time.

Section 248.107(b)—A commenter suggested that HUD should state that if a mortgagee accepts a prepayment in violation of § 248.107(a), the Department will require the parties to rescind the prepayment transaction. The final rule has been amended to provide that rescission of the prepayment is one of the remedies which the Department may seek if such a violation occurs.

Section 248.201 (Definitions)

Adjusted Income—The definition of adjusted income has been amended to take into account the adjustments authorized by 24 CFR 215.1. This revision makes the calculation of adjusted income under part 248 consistent with calculations of adjusted income under the Rent Supplement and section 236 programs.

Eligible low income housing—Section 1027 of the 1988 Amendments provides that section 236 non-insured projects are included within the definition of eligible low income housing. The definition of that term in § 248.201 has been revised accordingly. Owners of section 236 non-insured projects would submit notices of intent and plans of action to HUD in accordance with provisions of the final rule. The State agency having jurisdiction over the project would, in consultation with HUD, review and analyze the plan of action, make preliminary findings and negotiate with the owner on the terms of a plan of action involving incentives. However, HUD would be responsible for making all final determinations and giving final approval to the terms of the plan of action (except to the extent that an Alternative State strategy is in effect; see § 248.233).

Section 233(1) of the 1987 Act and § 248.201 of the final rule define the term "eligible low income housing" to include projects insured or held by HUD under section 221(d)(3) of the National Housing Act and assisted under the Rent Supplement program authorized by section 101 of the Housing and Urban Development Act of 1965, provided that, under regulation or contract in effect before the date of enactment, the mortgage is, or will within one year become, eligible for prepayment without the prior approval of the Secretary. However, the Department's regulations for the section 221(d)(3) program provide that owners of projects assisted under the Rent Supplement program may not prepay their mortgages at any time without HUD's consent; therefore, such projects could not constitute "eligible low income housing" as defined by the statute and this part. The Department would, as a minimum, apply the standards set forth in section 250(a) of the National Housing Act to the prepayment of the mortgage on any such project.

Good cause—The definition of good cause has been revised to make clear that uninhabitability of the project caused by the actions or inaction of the owner would not constitute good cause.

Prepayment—The Department has added a definition of "prepayment" to the final rule, stating that the term "prepayment" includes a prepayment in full as well as a partial prepayment or series of partial payments that would reduce the mortgage term by at least six months. If a partial prepayment is to be applied in such a manner that the outstanding principal balance will be recast over the original term of the mortgage, the partial prepayment would not constitute a "prepayment" for purposes of this rule. However, no full or partial prepayment resulting from the application of condemnation proceeds would be deemed a prepayment for purposes of this rule, since such prepayments are involuntary on the part of the project owner and result from governmental action.

Return on investment—A commenter suggested that a more precise definition is needed. The Department believes that, in light of the individualized circumstances of each project, a more precise definition of "return on investment" would be inappropriate.

Termination of low income affordability restrictions—The final rule contains a revised definition of the phrase "termination of low income affordability restrictions." Section 225(a) of the 1987 Act clearly contemplates that, even under a plan of action that involves "termination of low income affordability restrictions," the owner may be required to limit rent increases for current tenants to levels not exceeding the standard set forth in section 225(a)(1). Likewise, an owner's proposed plan of action under section 225(a) may entail assistance under a State, local or other Federal program, under which the low income use of all or some of the units in the project may be preserved. The Department would take into account the restrictions on lower income eligibility and rent levels accompanying this assistance in deciding whether the determinations set forth in section 225(a)(2)(A) could be met. Thus, the Department construes the term "termination of low income affordability restrictions" as used in the

statute, to mean the termination of those restrictions (for example, restrictions on rent increases imposed under the section 236 regulatory agreement) that HUD imposed pursuant to the program under which the mortgage being prepaid was insured.

Use agreement—A commenter suggested that the final rule be amended to clarify that both the Department and tenants will be entitled to enforce use agreements executed in connection with plan of action. The final rule has been so amended. A commenter also suggested that the final rule state that use agreements will include reporting requirements. The final rule has been amended to state that use agreements will include appropriate reporting requirements. Finally, a commenter suggested that tenants be provided with copies of the use agreement. The final rule states that all tenants in occupancy at the time that the plan of action is approved will receive a copy of the use agreement.

Section 1023 of the 1988 Amendments revises section 224(b) of title II to make clear that in cases where the Secretary provides incentives in connection with a plan of action that will maintain the low income affordability restrictions despite the prepayment of the mortgage, the use agreement must extend such restrictions through a period equivalent to the term of the original mortgage, and such restrictions are to include "the obligations specified in the regulatory agreement." It is unclear whether the latter reference pertains to all substantive requirements under the regulatory agreements, requirements regarding tenant protections only (including those requirements that relate to low income affordability), or requirements relating to low income affordability only. (The House Conference Report states that the use agreement must contain "additional" restrictions over and above the low income affordability restrictions. H. Rep. No. 100–1089 at 99.) HUD interprets the provision as pertaining to those requirements which relate to tenant protections (e.g., rent and income levels, nondiscrimination against families with children, maintenance of the property in good condition).

The definition of use agreement has been expanded to state that it is an agreement executed in connection with an approved plan of action, rather than only in connection with the prepayment of a mortgage. Some plans of action requiring use agreements do not involve mortgage prepayments.

Section 248.203(b)—The final rule includes a revision paralleling the revision to § 248.107(b), discussed above.

Section 248.211(b)—Several commenters suggested that tenants receive a copy of the notice of intent. Although the statute does not require that tenants be notified when a notice of intent is filed, HUD agrees that tenants should be made aware of an owner's intention to prepay the mortgage or alter the terms of the regulatory agreement. Accordingly, the final rule provides that each tenant be given a copy of the notice of intent, and that a copy of the notice be posted in each occupied building. The Department has also determined that tenants should be notified once HUD and the owner have developed the terms for the proposed plan of action but before its final approval by the Commissioner. Section 248.218 of the final rule has been added to provide such notice.

Several commenters felt that HUD should specify the State or local agency to which the notice of intent should be sent. More specifically, four commenters stated that HUD should direct mortgagors to send the notice of intent to the chief elected officials of both the State and local government. The final rule has been amended to provide that the notice of intent may be sent to the governor of the State. (In the case of a project located in the District of Columbia, Puerto Rico, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, American Samoa or the Virgin Islands, the notice of intent must be sent to the official whose functions correspond to those of a State governor.) As an alternative to notifying the Governor, the owner may notify the appropriate State or local government agency. It is the Department's view that attempting to specify exactly what other State or local government agency or official should receive the notice of intent would lead to more rather than less confusion. However, HUD suggests that, in general, the appropriate State or local agency would be the agency that provides mortgage financing under the section 236 non-insured program or that administers the project-based section 8 program in the jurisdiction where the project is located. In addition, State or local law may impose additional notification requirements when a prepayment is contemplated.

Section 248.211(c)—Section 1022(a) of the 1988 Amendments states that the Secretary shall provide to owners filing a notice of intent "any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan [of action]." Section 248.211(c) has been revised accordingly. However, owners will be advised that the data furnished by HUD may not be current; if HUD's data is not current, the owner should update it.

Section 248.211(d)(1)—The final rule has been revised to make clear that under some circumstances the Commissioner may approve a plan of action that provides for the termination of all low income affordability restrictions. Such an approval would be warranted where the project is located in a housing market in which there is sufficient comparable, decent, safe and sanitary affordable housing to meet the needs of all current tenants. In such a case, the plan of action must specify the actions to be taken to ensure that any displaced tenants are relocated to affordable housing. See § 248.213(b)(5), which implements section 225(d) of title II, as added by section 203(b)(2) of the 1989 Amendments.

Section 248211(d)(2)—The interim rule provides that one outcome of filing a notice of intent may be that the Commissioner approves the prepayment, but the owner will receive incentives from the Federal government pursuant to § 248.231 in return for agreeing to conditions related to the continued use of the project as low income housing in accordance with § 248.233. Two commenters suggested that the final rule provide for a partial termination of low income affordability restrictions, in conjunction with HUD's provision of incentives that are appropriate in light of the maintenance of a portion of the project as low income housing. The Department has adopted this suggestion.

One commenter stated that HUD should not provide incentives to project owners who will prepay, unless the project owner agrees to a complete set of use restrictions governing all major elements of project operations. The final rule has been amended to provide that the outcome stated in § 248.211(d)(2)(i) is available only where the project owner will receive assistance under a State, local or other Federal government housing program. The Department expects that the requirements applicable to such other assistance would include tenant protections comparable to those applicable under the HUD program. In any event, as noted above with respect to the definition of the term "Use Agreement," the Department, in implementation of section 1023 of the 1988 Amendments, intends to include tenant-related provisions of the regulatory agreement in use agreements

executed by project owners receiving incentives.

Section 248.213(a)—Several commenters suggested that tenants receive copies of the plan of action submitted by the project owner. The Department has concluded that tenant input into the development of the plan of action would be most meaningful after the Department and the project owner have worked together to refine the project owner's initial submission and have reached a tentative agreement on a plan of action that would meet the requirements of the statute and this rule. Section 248.218 provides for tenant notice and an opportunity to comment on the proposed plan of action at that point.

A commenter suggested that HUD require project owners to send the plan of action to the appropriate State or local government agency in every case. Section 223(a) of title II states that the owner "may" submit the plan of action to such appropriate State or local agency, and the final rule tracks the statute and the interim rule in this regard. A commenter pointed out that the statute states that the plan of action may be sent to "any" appropriate State or local agency, whereas the interim rule states that the plan of action may be sent to "the" appropriate State or local agency. The final rule has been amended to track more closely the statutory language. However, since notification of State and local agencies is optional on the part of the project owner, the Department does not construe the language of the statute or the final rule as requiring that all appropriate State or local government agencies receive a copy of the plan of action.

Section 248.213(b)—Commenters made a number of suggestions concerning the nature of the information to be included in the plan of action. The Department's field instructions issued July 14, 1988, provide detailed guidance on the information which the plan of action must contain. (These information collection requirements were later submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980; in some cases the requirements were disapproved). HUD offices were instructed not to require this additional information and to inform affected owners that the information would not be required.

Section 1022(b) of the 1988 Amendments adds a new subsection (d) to section 223 of title II, stating that "[t]he Secretary shall limit the amount of appraisal, market area, and demographic information required under this section in the case of a plan of action requesting incentives." Section 248.213(b) has been revised accordingly.

Section 203(b)(2) of the 1989 Amendments adds a new subsection (d) to section 225 of title II, stating that "[a]ny plan of action shall specify actions that the Secretary and the owner shall take to ensure that any tenants, displaced as a result of a plan of action approved under subsection (a) or as a result of modifications taken pursuant to subsection (c), are relocated to affordable housing." Section 248.213(b)(5) has been revised accordingly.

Section 248.215—One commenter stated that HUD should be required to notify an owner within 60 days, or earlier if possible, whether a plan of action is acceptable. Two commenters asked what consequences would follow if HUD fails to meet the 60-day deadline for notifying owners of deficiencies in the plan of action. The July 14, 1988 field instructions establish expedited procedures for the review of the plans of action. In light of these expedited procedures, the Department has concluded that no revisions in the final rule are needed in response to these comments.

Section 248.217—A commenter suggested that HUD be required to respond to revisions within a specified period of time. The July 14, 1988 field instructions state that HUD will notify project owners of any deficiencies in the revised plan of action within 60 days of submission.

Section 248.218—Section 1026 of the 1988 Amendments amends section 232 of title II to provide that in its report to Congress on implementation of title II, HUD must include a description of "the actions taken by the Secretary to ensure meaningful participation by affected tenants * * *." In response to this amendment and to public comments, the final rule includes a new § 248.218 which provides for such tenant input. Under this provision each tenant will be notified of the terms of a proposed plan of action after HUD and the owner have concluded preliminary negotiations. Tenants will be given sixty days in which to comment on the summary of the plan of action, and HUD must take such comments into consideration before granting final approval to the plan of action. HUD has determined that it is appropriate to give tenants sixty days to submit comments, rather than the thirty days which is customary in tenant notice procedures, because of the complexity of many plans of action.

Section 248.219—Under § 248.219, HUD is obligated to notify the owner in writing whether the plan of action, including any revisions, is approved, no later than 180 days after initial receipt of a plan of action, or within such longer period as the owner requests. In cases where HUD notifies an owner of deficiencies in the plan of action, and the owner does not submit a revised plan of action within a reasonable amount of time, there may not be sufficient time for HUD to review the revised plan of action before the expiration of the 180-day period. In such cases HUD will notify the owner by the 180th day that it is not yet possible for HUD to approve the plan of action, and that a final decision on the acceptability of the revised plan of action will be made as soon as possible.

Section 248.221(a)—Section 1024 of the 1988 Amendments revises section 225(a)(1) of title II in two respects. First, it amends section 225(a)(1) to provide that the Secretary may approve a plan of action that involves the termination of low income affordability restrictions only upon a written finding that, where comparable and affordable housing is not readily available, the plan of action will not result in:

> (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower)* * * * *

The Department has included these standards in § 248.221(a) of the final rule, in substitution of the so-called "HODAG" standard, which was derived from the rent structure authorized for the Housing Development Grant ("HODAG") Program.

One commenter stated that if tenants are relocated to a project where rents are higher than those currently paid by the tenant, the tenant suffers a material increase in economic hardship. The Department does not construe the statute as restricting prepayment to cases in which current tenants will incur no increase in rents. To the contrary, the statute implicitly recognizes that some rent increases would not result in a material increase of economic hardship.

Section 1024 of the 1988 Amendments further amends section 225(a)(1) with respect to the provision of assistance for projects whose mortgages are prepaid under a plan of action. The preamble to the interim rule, at 53 FR 11227, declared that it was HUD's current policy to provide vouchers under section 8 of the United States Housing Act of 1937, 42

U.S.C. 1437f, to any very low income tenants who would otherwise suffer economic hardship as a result of a prepayment approved under part 248. Section 1024 of the 1988 Amendments amends section 225(a)(1) of title II by stating that the Secretary's determination that a plan of action involving termination of low income affordability restrictions will not materially increase economic hardship for current tenants or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available must be made "without regard to the availability of federal assistance that would address any such hardship or involuntary displacement." The final rule has been amended in accordance with section 1024. However, the final rule has been further amended to indicate that, while HUD's determination under section 225(a) will be made without regard to the availability of federal assistance, the Department reserves the right to provide assistance for specific tenants in light of their individual circumstances.

Section 248.221(b)—A commenter requested that HUD provide more detailed standards concerning the evaluation of the effect of the prepayment on the availability of decent, safe and sanitary housing affordable to low income and very low income families in the area that the housing could reasonably be expected to serve, the ability of lower income and very low income families to find decent, safe and sanitary housing near employment opportunities, and the housing opportunities of minorities in the community within which the housing is located. No changes have been made to the final rule in response to this comment. The Department expects that the development of meaningful standards must be done on a case-by-case basis in light of the conditions in each housing market. Two commenters suggested that HUD make use of public and subsidized housing waiting lists and the Housing Assistance Plan for the appropriate jurisdiction in reviewing a plan of action. The Department expects to utilize these sources of data in its review, to the extent that such sources of information provide appropriate and relevant data. However, the area covered by a Housing Assistance Plan is not necessarily identical to the relevant market area for a particular project. Also, public housing agency waiting lists do not necessarily provide an accurate reflection of demand for low income housing. For example, the lists may include families who are adequately housed but who are seeking a Section 8 Certificate or Voucher in order to make their current housing more affordable.

A commenter stated that in conducting its review HUD should look at the projected effect of the prepayment on the housing market during the full remaining term of the mortgage. The Department intends to evaluate the effect of the prepayment on the housing market for the length of time during which valid projections can be made. In cases where the project is currently subject to a section 8 HAP Contract that will continue in effect past the prepayment, the Department intends to examine what the effect of the prepayment on the housing market will be once the section 8 HAP Contract expires, to the extent that valid market projections can be made to that date in the future. One commenter asked whether HUD intends to use the "HODAG" formula in evaluating affordability under § 248.221(b). HUD will use the affordability standard established by section 1024 of the 1988 Amendments, which replaced the HODAG standard in the interim rule.

Section 248.223—A commenter suggested that if HUD has approved an alternative State strategy, a project owner should receive approval of a plan of action that involves prepayment only if the plan of action has been approved in accordance with the alternative State strategy. The Department has not adopted this suggestion. The Department views the alternative State strategy as an alternative basis, and not the sole basis, for obtaining approval for prepayment, even where HUD has approved the alternative State strategy for that State. Commenters suggested that the final rule include greater detail concerning requirements for alternative State strategy approval. Since HUD expects only a very small number of States to submit alternative State strategies for approval, the Department has determined that retaining the more general language of the interim rule will maximize HUD's flexibility in reviewing any State strategies that are submitted. A commenter suggested that the alternative State strategy mechanism should be applicable to project owners that receive incentives and do not prepay their HUD mortgages. The final rule adheres to the design of the statute, which contemplates that the alternative State strategy is applicable only to plans of action involving the termination of low income affordability restrictions. However, in accordance with section 229 of the statute and § 248.251 of the final rule, the Department intends to work closely with State and local governments in order to achieve the purpose of the legislation.

Section 248.223(a)(8)—A commenter observed that States cannot be expected to make funds available for comparable housing before the Commissioner approves the alternative State strategy. The interim rule tracks section 226(a)(8) of the statute in this respect, and the Department has made no change in the final rule in response to this comment. The Department intends to apply this requirement in a reasonable manner by considering each alternative State strategy in its totality.

Section 248.223(b)—A commenter also observed that it is unreasonable to require the State to make binding commitments before HUD has negotiated the terms of each plan of action with project owners who would come within the alternative State strategy. The interim rule tracks section 226(b)(1) of the statute in this regard, and the Department has made no change in the final rule in response to this comment. HUD will apply this requirement in a reasonable manner by considering each alternative State strategy in its totality.

Section 248.231—A commenter suggested that the final rule provide more detail as to the circumstances under which HUD would approve each type of incentive. The July 14, 1988 field instructions provide further guidance in this regard, and owners can obtain further information on the incentives from field office staff. The Department has determined that providing further specificity in the final rule would not be appropriate, since HUD's decision to approve various incentives must be made on a case-by-case basis and is dependent in part on the availability of funding. Three commenters suggested that HUD include as an incentive the subordination of the HUD-held mortgage or approval of the subordination of the HUD-insured mortgage. The Department has not accepted this suggestion. The equity loan incentive authorized under § 248.231(d) and part 241, subparts E and F would accomplish the same purpose. In addition, the Department does not think that approval of subordination would be consistent with the requirement in section 225(b)(2) of the statute that incentives provided by HUD be the "least costly alternative that is consistent with the full achievement of the purposes of [title II] * * *"

A commenter suggested that HUD include as an incentive a section 236-type subsidy for each mortgage increase. Section 167 of the 1987 Act authorizes HUD to insure under section 236 of the National Housing Act a mortgage used

to refinance an existing section 236 mortgage or to finance, pursuant to section 236(j)(3), the purchase by a nonprofit or cooperative corporation or association of a project assisted under section 236. With the exception of section 167 of the 1987 Act, there is no authority for a section 236-type subsidy for equity mortgage increases.

Section 248.231(b)—A commenter suggested that the calculation of allowable dividends should take into account equity contributed by a new owner. The July 14, 1988 field instructions provides that HUD may consider revising the method of calculating equity based on the new appraised value as rental housing, minus the total outstanding financial debt and encumbrances.

Section 248.231(c)—A commenter asserted that the statement in the preamble of the interim rule at 53 FR 11228 that only in extreme circumstances would HUD approve increased access to reserve for replacements funds as part of a plan of action is inconsistent with the statute. The Department construes section 224(b) of the statute as affording HUD considerable discretion in choosing among incentives. Moreover, section 225(b)(3)(B) of the statute, which requires that the project owner make binding commitments to ensure that adequate expenditures will be made for maintenance and operation of the housing until the maturity date of the mortgage, evidences Congress' concern that funds be available to maintain the project in good condition. Therefore, HUD believes that the preamble statement is fully consistent with the statue.

Section 248.231(e)—A commenter suggested that HUD give a high priority to allowing increases in section 8 rents. Subject to the availability of funds, and consistent with the requirement in § 248.233(c) that the incentives provided are the "least costly alternative for the Federal Government to achieve the purposes of [part 248] with respect to the housing," such increases will be considered on a case-by-case basis in conjunction with other incentives.

Section 248.231(f)—HUD stated in the preamble to the interim rule at 53 FR 11228 that it would not implement the capital improvements loan program authorized under section 201 of the Housing and Community Development Amendments of 1978, as amended by the 1987 Act. However, section 1011(b) of the 1988 Amendments directs the Secretary to issue regulations that become effective not later than February 5, 1989 to implement the program. HUD issued an interim rule implementing the program on March 7, 1989 at 54 FR 9708.

Section 248.231(g)—A commenter suggested that HUD place a priority on encouraging sales to nonprofit owners, and provide special incentives to nonprofit purchasers. The Department has not changed the final rule in response to these suggestions. Consistent with § 248.231(g), the Department will work vigorously with nonprofit purchasers in connection with the negotiation of a plan of action, but the Department has determined that there is no need to develop in the final rule additional incentives that would be available specifically to nonprofit purchasers.

Section 248.231(i)—A new provision has been added to make clear that if HUD approves the prepayment of the mortgage in connection with a plan of action under section 225(b), with the result that the reserve for replacements and residual receipts escrows will be released to the owner and HUD's restrictions on distributions will terminate, the owner's access to such escrows and distributions would constitute an incentive. (On the other hand, the owner's access to escrows and distributions in connection with the prepayment of the mortgage under section 225(a) would not constitute an incentive.)

Section 248.233(d)(6)—Four commenters asserted that HUD has improperly replaced a mandate in section 225(b)(3)(E)(ii) of the statute to provide section 8 if necessary to mitigate any adverse effects of rent increases on current tenants with a mandate on the project owner to accept section 8 assistance if necessary to mitigate such effects. Subject to the availability of funds, the Department fully intends to provide such assistance where necessary, and the final rule has been amended in this regard.

Section 248.233(d)(7)—The interim rule tracked the language of section 225(b)(3)(F) of the statute requiring that rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low income, low income and moderate income families or persons as resided in the housing as of January 1, 1987. Several commenters felt that the final rule should clarify the meaning of the statute. Subsequently, the 1989 Amendments revised section 225(b)(3)(F) to read as follows:

(F)(I) Rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing.

The Department has revised the final rule accordingly. The Department expects that the ramifications of the statutory standard will have to be worked out on a case-by-case basis, and thus it is not feasible at this time to further elaborate upon the standard.

Section 248.234—A new section has been added to implement section 225(c) of title II, which was added by the 1989 Amendments. These provisions specify actions to be taken by owners and HUD if rental assistance essential to an approved plan of action is not available in the future. Among the possible actions to be taken upon the request of an owner are modification of the binding commitments dependent on the rental assistance, release of an owner from those binding commitments, and approval of a revised plan of action involving termination of low income affordability restrictions. The provisions also include time periods governing the owner's notice of intent to make such a request and the Secretary's response to the request.

Section 248.241—Subsection (a) of this provision has been amended to provide that the Commissioner will agree to the modification of an existing regulatory agreement only in cases where the project's current use is not its highest and best use. This revision brings § 248.241 into conformity with § 248.233, which sets forth criteria for approval of plans of action that include incentives. Since the modification of the regulatory agreement pursuant to § 248.241 would allow increased distributions produced by higher rents, it is appropriate to allow such a modification only in cases where the prohibition on prepayment imposed by the 1987 Act deprives the owner of a more profitable use of the project.

Section 248.241 of the final rule states that the Commissioner may approve the modification of the regulatory agreement, upon the request of the owner, if a plan of action is not approved within 300 days after submission. However, HUD has found that in some cases owners have taken

an excessive amount of time to submit a complete plan of action or to respond to HUD notices of deficiencies with revisions to the plan of action. If the Department is unable to review a complete plan of action submission within the 300-day period because of such excessive delays attributable to the owner, the Department will not entertain a request by the owner for a modification of the regulatory agreement until it has had such an opportunity. Once the 300-day period had expired and HUD has had reviewed a complete plan of action submission and has found it unacceptable, HUD will entertain a request for the modification of the regulatory agreement under this section. The owner may then continue to negotiate with HUD on approval of a plan of action even after the owner has requested such a modification or the modification has been approved by HUD and executed.

Tenant input into decisions on allowable increases of rents pursuant to a modification of the regulatory agreement under § 248.241 would be governed by subpart D of part 245, "Tenant Participation in Multifamily Housing Projects.'

Section 248.251—A commenter stated that tenants should be explicitly listed as "interested parties" under this provision. The Department has not changed the final rule in response to this comment. However, as discussed above, § 248.218 has been added to provide tenants with notice of the proposed plan of action and an opportunity to comment upon a summary thereof, and such comments will be taken into account before HUD makes a final determination on approving the plan of action.

Section 236.10(e)—A new paragraph has been added to § 236.10, *Eligible mortgagors*, to provide for acquisition of section 236 non-insured projects by public entities. This implements section 203(a) of the 1989 Amendments, which amended section 236(b) of the National Housing Act. (Section 203(a) did not include a parallel amendment to section 236(j) of the National Housing Act, which establishes eligibility requirements for section 236 insured projects.)

Section 236.30—A commenter suggested that the final rule permit prepayment of a section 236 mortgage in connection with the sale of the project to a public housing agency. The Department has made no change in the final rule in response to this suggestion. Nothing in the final rule would preclude HUD approval of such a sale to a public housing agency.

Sections 236.55 and 236.60—The final rule includes conforming revisions to these provisions. Sections 225(b)(3)(D), (E) and (F) establish limitations on rent increases that may result in rent levels exceeding those that would be permitted under the section 236 statute and implementing program regulations. The legislative history of title II makes clear that the rent limits established by section 225 are designed to generate additional project income which can make possible some of the incentives authorized under section 224(b). *See* H. Conf. Rep. No. 100–426, *supra* at 196. With respect to projects insured or assisted under section 236, this statutory scheme would be negated if the section 236 statutory and regulatory requirements pertaining to rent levels and the payment of excess rental charges to the Secretary had to be followed. The Department therefore infers that Congress intended that the rent levels in title II supersede those in section 236 to the extent of any conflict, and that rental income realized by the project as a result of higher rent levels approved under a plan of action need not be paid to the Secretary. Likewise, section 8(c)(10) of the United States Housing Act of 1937, added by section 262(b) of the 1987 Act, provides for the adjustment of section 8 contract rents for an owner who provides notice of proposed termination of the section 8 contract. Since the apparent intent of section 8(c)(10) is to induce owners to renew their section 8 contracts, and since that intent would be frustrated if the additional income resulting from the rent increases had to be paid to the Secretary, the Department infers that, with respect to such additional income, section 8(c)(10) supersedes the requirement in section 236(g) of the National Housing Act that excess income be returned to the Secretary.

Part 241

General—One commenter suggested that HUD should develop a program for coinsurance of equity loans. One basis for the commenter's sugggestion was a concern that the processing time for fully-insured equity loans would be too lengthy. Consistent with that announced intention of the Secretary to propose the termination of the coinsurance programs, the final rule does not provide authority for coinsured equity loans

One commenter stated that because of the possibility of foreclosuer by the insured first lender, equity loans would not be attractive. The Department disagrees, since the holder of the equity loan is insured by the Department.

Section 241.1005—The definition of "borrower" has been expanded to include a public entity, pursuant to section 203(c)(2) of the 1989 Amendments, which amended section 241(f)(3) of the National Housing Act.

Section 241.1030—The Department has reduced the mortgage insurance permium from 1% per year to 0.5% per year. The Department had established an MIP off 1% in the Interim Rule because of its concerns about risk exposure under the new program. These concerns were accentuated by the fact that at that time HUD had little experience in developing plans of action under title II. Now that the Department has gained such experience, it has determined that the MIP rate for equity loans insured in connection with a plan of action should be comparable to the MIP rate for HUD insured loans generally.

Section 241.1046—A new setion has been added to implement the provisions of section 203(c)(1) and (d) of the 1989 Amendments, which amended section 241(f) of the National Housing Act. The amendments provide that the Secretary may assume, when underwriting an equity loan, that rental assistance provided in accordance with an approved plan of action will be extended for the full term of the contract. In the event that the rental assistance is not extended or the Secretary is unable to develop a revised package of incentives comparable to those received under the original approved plan of action, the Secretary may accelerate repayment of the loan. The Secretary may also take such other actions as the Secretary deems appropriate to avoid default or disruption of the sound ownership and management of the property or otherwise minimize the cost to the Federal Government if the rental assistance is not extended.

Section 241.1065—One commenter suggested increasing the maximum loan amount to ninety-five percent of the owner's equity in the project. Section 241(f)(2)(A) of the National Housing Act limits the amount of the loan to ninety percent of the value of the equity in the project.

Section 241.1240—Section 241.1240 of the interim rule provded that in the event of a sale or refinancing of a project formerly or currently subject to an equity loan and which receives or has received additional section 8 assistance under a plan of action, HUD shall recapture the amount of such additional assistance. This provision has been deleted from the final rule.

Findings and Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD

regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule constitutes a major rule, as determined by the Office of Information and Regulatory Affairs, Office of Management and Budget, under authority of Executive Order 12291 on Federal Regulation issued on February 17, 1981. A copy of the Regulatory Impact Analysis has been transmitted to the Office of Management and Budget, and is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Under Section 605 of the Regulatory Flexibility Act (5 U.S.C. 601), HUD certifies that this rules does not have a significant economic impact on a substantial number of small entities, because it carries out statutorily-mandated limitations on prepayment of the affected mortgages. Any economic impact is a direct consequence of the statute and is not separately imposed by this rule.

This rule was listed as sequence number 1177 (55 FR 16226, 16247) in the Department's Semiannual Agenda of Regulations published on April 23, 1990 under Executive Order 12291 and the Regulatory Flexibility Act.

Information on the estimated public reporting burden is provided below. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Paperwork Reduction Project Act (Re: OMB Control Number 2502-0378), Management and Budget, Washington, DC 20503.

In accordance with 5 CFR 1320.21, data on the information collection requirements contained in this rule is provided as follows:

Proposal: Plan of action to include each of the elements listed in 24 CFR 248.211(b); Owner to prepare and mail to tenants a summary of the plan of action of which HUD and the Owner have reached preliminary approval.

Description of the Need for the Information and Its Proposed Use: The contents of the plan of action listed in § 248.213(b) are needed in order to enable the Department to determine: (1) In the case of a plan of action involving the termination of low income affordability restrictions, whether the plan of action meets the standards in § 248.221 for approval of such a plan of action, with regard to the impact on current tenants and the effect on the availability of lower income housing in the area; and (2) in the case of a plan of action involving incentives, whether the plan of action meets the standards in § 248.233 for approval of such a plan of action, with regard to ensuring the owner a fair rate of return while preserving the project as lower income housing.

Section 248.218 provides that when HUD and the owner have reached preliminary agreement on the terms of a plan of action, the owner shall prepare a summary of the plan of action and shall send the summary to each tenant in the project and post a copy in each occupied building. This requirement is necessary in order to given tenants in the project a meaningful opportunity to submit comments on the plan of action to HUD before it is finally approved.

Form Number: None.

Respondents: Owners of eligible low income housing projects.

The following table discloses the Department's estimated burden for each of these collections of information.

FINAL RULE—TABULATION OF ANNUAL REPORTING BURDEN PRESERVATION OF LOW-INCOME HOUSING

Description of information collection	Number of respondents	X	Responses per respondent	=	Total annual responses	X	Hours per response	Total hours
Plans of Action for Prepayment:								
Description of proposed changes in status or term of regulatory agreement	5		1		5		2	10
Description of any assistance by State or local government agencies	5		1		5		1	5
Description of changes in the low-income affordability restrictions	5		1		5		1	5
Description of any propsed changes in ownership related to the Plan of Action or prepayment	5		1		5		1	5
Assessment of the effect of the proposed changes on existing tenants	5		1		5		4	20
Statement of the effect of the proposed changes on the supply of housing affordable to low and very low-income families	5		1		5		1	5
Market Study	5		1		5		80	400
Plans of Action for Incentives:								
Description of any proposed changes in the status or terms of the mortgage or regulatory agreement which may include request for incentives to extend low-income use of housing	20		1		20		2	40
Description of any assistance by State or local government agencies	20		1		20		1	20
Description of changes in the low-income affordability restrictions	20		1		20		1	20
Description of any proposed changes in ownership related to the Plan of Action	20		1		20		1	20
Assessment of the effect of the proposed changes on existing tenants	20		1		20		1	20
Appraisal using the Residential Income Approach	20		1		20		4	80
Occupancy Rate	20		1		20		1	20
Total							11	220
Summary of Preliminary Agreement on Plans of Action: Distribution of Summary	25		1		25		2	50
Notice of Intent:								
Completion of Notice	25		1		25		1	25
Distribution of Notice	25		1		25		1	25

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political

subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule implement title II, subtitle B of the 1987 Act, which leaves HUD little discretion in areas that may involve federalism issues.

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and thus is not subject to review under the Order. The rule establishes criteria pursuant to which HUD may approve an owner's request to prepay a mortgage related to lower income housing, provide inducements to an owner for keeping the mortgage in place for the full mortgage term, or require the owner to keep the mortgage in place without furnishing any inducements. Any effect on the family would likely be indirect and insignificant.

The General Counsel, as Designated Official under Executive Order 12630, *Government Actions and Interference with Constitutionally Protected Property Rights*, has determined that this final rule does not have "takings implications," as defined in HUD's "Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings." The final rule does not deny the owner an economically viable use for the project. Instead, the owner will, at a minimum, maintain ownership of the project with the below market rate mortgage or rental subsidies in place; in addition, the owner may be eligible to receive incentives to enhance the economic benefits of maintaining the project as low income housing. Moreover, the burden imposed by the statute and the final rule is limited by the statute's sunset provision.

The Catalog of Federal Domestic Assistance program number for this rule is program number 14.137 (Mortgage Insurance—Rental and Cooperative Housing for Low and Moderate Income Families).

Note: Section 236 no longer has a CFDA Number.

Although a relatively small number of provisions of the Interim Rule are revised in this Final Rule, the Final Rule is printed below in its entirety for ease of reference.

List of Subjects

24 CFR Part 50

Environmental assessments, Environmental impact statements, Environmental policies and review procedures.

24 CFR Part 221

Condominiums; Low and moderate income housing; Mortgage insurance; Displaced families; Single family housing projects; Cooperatives.

24 CFR Part 236

Low and moderate income housing; Mortgage insurance; Rent subsidies; Taxes; Utilities; Projects.

24 CFR Part 241

Energy conservation; Mortgage insurance; Solar energy; Projects.

24 CFR Part 248

Low and moderate income housing; Mortgage insurance.

Accordingly, the Department amends title 24 of the Code of Federal Regulations as follows:

1. In chapter II, a new part 248 is added, to read as follows:

PART 248—PREPAYMENT OF LOW INCOME HOUSING MORTGAGES

Subpart A—General

Sec.

Subpart B—Prepayments and Plans of Action

Sec.

Authority: Sections 201–235, Housing and Community Development Act of 1987, Pub. L. 100–242 (12 U.S.C. 1715/ note); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Subpart A—General

§ 248.101 Purpose.

The purpose of this part is to—

(a) Preserve and retain to the maximum extent practicable as housing affordable to low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance, without unduly restricting the owners' prepayment rights;

(b) Minimize the involuntary displacement of tenants currently residing in such housing; and

(c) Work in partnership with State and local government and the private sector in the provision and operation of housing that is affordable to low income families.

§ 248.103 Effective date.

The requirements of this part apply to any project that is eligible low income housing on or after November 1, 1987.

§ 248.105 Termination.

Section 203 of the Housing and Community Development Act of 1987, as amended by section 201 of the Department of Housing and Urban Development Reform Act of 1989, provides that sections 221 through 235 of the Act, upon which this part is based, expire on September 30, 1990. This part will likewise be terminated or amended on the basis of the expiration or amendment of sections 221 through 235 of the Act. Plans of action approved prior to September 30, 1990, will continue in effect past that date.

§ 248.107 Alternative moratorium provision.

(a) If any court of the United States or any State invalidates the requirements established in this part, an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and the mortgagee may not accept prepayment of, a mortgage on such housing during the two-year period following the date of such invalidation. Further, a contract for mortgage insurance with respect to eligible low income housing located in the geographic area subject to the jurisdiction of such court may not be terminated pursuant to section 229 of the National Housing Act until September 30, 1990.

(b) A mortgagee's acceptance of a prepayment or termination of a mortgage insurance contract in violation of paragraph (a) of this section is

grounds for administrative action under part 25 of this title and for seeking any other remedies available by law, including rescission of the prepayment and reinstatement of the insurance contract.

Subpart B—Prepayments and Plans of Action

§ 248.201 Definitions.

Adjusted Income. Annual income, as specified in § 251.21 of this chapter, less allowances specified in the definition of "Adjusted Income" in § 215.1 of this chapter.

Allowable Distributions. The amount of cash or other assets that the owner may withdraw from the project under the terms of the regulatory agreement, applicable regulations, and administrative instructions, including the segregation of cash or assets for subsequent withdrawal, and excluding repayment of advances made for reasonable and necessary expenses incident to the operation and maintenance of the project.

Capital Improvement Loan. A direct loan originated by the Commissioner under part 219, subpart C of this chapter.

Eligible Low Income Housing. Any housing financed by a mortgage—

(a) That is—

(1) Insured or held by the Commissioner under section 221(d)(3) of the National Housing Act and assisted under part 215 of this chapter or project-based assistance under parts 880, 881 or 886 of this title;

(2) Insured or held by the Commissioner under part 221 of this chapter and bearing a below market interest rate as provided under § 221.518(b) of this chapter;

(3) Insured, assisted, or held by the Commissioner or a State or State agency under part 236 of this chapter; or

(4) A purchase money mortgage held by the Commissioner with respect to a project which, immediately prior to HUD's acquisition, would have been classified under paragraph (a) (1), (2), or (3) of this definition; and

(b) That, under regulation or contract in effect before November 1, 1987, is, or within one year from the date of the notice of intent would become, eligible for prepayment without the prior approval of the Commissioner.

Equity. The Owner's investment in the housing project, as approved or determined by the Commissioner.

Equity Loan. A loan insured by the Commissioner under part 241, subpart E of this chapter.

Fair Market Rent. The fair market rent as defined under § 882.102 of this title, applicable to the jurisdiction in which the housing is located.

Flexible Subsidy Assistance. Assistance provided by the Commissioner under part 219 of this chapter, other than a capital improvement loan.

Good Cause. Temporary or permanent uninhabitability of the project justifying relocation of all or some of the project's tenants (except where such uninhabitability is caused by the actions or inaction of the owner), or actions of the tenant that, under the terms of the tenant's lease and applicable regulations, constitute a basis for eviction.

Limited Equity Cooperative. A cooperative housing corporation in which income eligibility of purchasers or appreciation upon resale of membership shares, or both, are restricted in order to maintain the housing as available to and affordable by low and moderate income families and persons.

Low Income Affordability Restrictions. Limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility with respect to eligible low income housing.

Lower Income Families. Families or persons whose incomes do not exceed the levels established for lower income families under part 813 of this title.

Moderate Income Families. Families or persons whose incomes are between 80 percent and 95 percent of median area income, as determined by the Commissioner with adjustments for smaller and larger families.

Mortgage. The mortgage or deed of trust insured or held by the Commissioner or a State or State agency under parts 221 or 236 of this chapter, or the purchase money mortgage taken back by the Commissioner in connection with the sale of a HUD-owned project and held by the Commissioner, where such mortgage, deed of trust or purchase money mortgage is secured by eligible low income housing.

Notice of Intent. An owner's notification of its intent to seek prepayment of its mortgage, termination of the mortgage insurance contract or amendment of the mortgage or regulatory agreement pursuant to this part.

Owner. The mortgagor or trustor under the mortgage secured by eligible low income housing.

Plan of Action. A plan providing for prepayment of the mortgage, termination of the mortgage insurance contract, or continuation of the mortgage in place, and providing for either the termination of low income affordability restrictions, or the continuation of the project's use as lower income housing under modified terms and conditions.

Prepayment. Prepayment in full of a mortgage, or a partial prepayment or series of partial prepayments that reduce the mortgage term by at least six months, except where the prepayment in full or partial prepayment results from the application of condemnation proceeds.

Regulatory Agreement. The agreement executed by the owner and the Commissioner or a State agency providing for the Commissioner's regulation of the operation of the project.

Reserve for Replacements. The escrow fund established under the regulatory agreement for the purpose of ensuring the availability of funds for needed repair and replacement costs.

Residual Receipt Fund. The fund established under the regulatory agreement for holding cash remaining after deducting from the surplus cash, as defined by the regulatory agreement, the amount of all allowable distributions.

Return on Investment. The amount of allowable distributions, tax benefits, and other income or benefits received by the owner, as a percentage of the equity.

Section 8. Assistance provided under parts 880 through 886 of this title, or assistance provided under HUD's housing voucher program.

Termination of Low Income Affordability Restrictions. The elimination of low income affordability restrictions under the regulatory agreement through termination of mortgage insurance or prepayment of the mortgage.

Use Agreement. An agreement or covenant which is executed and recorded in the appropriate land records in connection with an approved plan of action, has lien priority over other mortgages and liens, is binding upon the owner and its successors and assigns, is enforceable by the Commissioner and by tenants, contains appropriate reporting requirements, and restricts or governs the use and operation of the project with respect to rent levels and increases, relocation, and, where appropriate, tenant eligibility, civil rights and other requirements. All tenants in occupancy at the time that the plan of action is approved will receive a copy of the use agreement.

Very Low Income Families. Families or persons whose incomes do not exceed the level established for very low income families under § 813.102 of this title.

§ 248.203 General prepayment limitation.

(a) An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Commissioner.

(b) A mortgage insurance contract with respect to eligible low income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Commissioner.

(c) A mortgagee's acceptance of a prepayment in violation of paragraph (a) or termination of a mortgage insurance contract in violation of paragraph (b) of this section is grounds for administrative action under parts 24 and 25 of this title, in addition to any other remedies available by law, including rescission of the prepayment or reinstatement on the insurance contract.

§ 248.211 Notice of intent to prepay.

(a) An owner of eligible lower income housing seeking to prepay its mortgage or to negotiate changes in the terms of the mortgage or regulatory agreement in accordance with this part, including termination of the insurance contract pursuant to section 229 of the National Housing Act, shall file a notice of intent with the HUD field office in whose jurisdiction the project is located, and shall file a duplicate copy with the HUD Headquarters Office of Multifamily Housing Management, 451–7th Street, SW., Washington, DC 20410. The notice of intent shall identify the project by name, project number and location, briefly describe the owner's plans for the project, including any timetables or deadlines for actions to be taken, and the reason the owner seeks to prepay the mortgage or change the terms of the mortgage or regulatory agreement, and briefly describe any contacts that the owner has made or is making with other governmental agencies or other interested parties in connection with the notice of intent.

(b) The owner simultaneously shall file the notice of intent with: (1) The governor of the State in which the project is located or with the appropriate State or local government agency for the jurisdiction in which the project is located, and (2) each tenant in the project. In addition, the owner shall post a copy of the notice of intent in each occupied building in the project.

(c) Upon receipt of a notice of intent, the Commissioner will provide the owner with information that the owner needs to prepare a plan of action. This information shall include information regarding the Commissioner's standards under § 248.221 of this part regarding the approval of a plan of action involving termination of low income affordability restrictions, and any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan of action; in addition, it shall include at a minimum a list of the Federal incentives authorized under § 248.231 of this part for those projects for which a plan of action involving termination of low income affordability restrictions would not be approvable.

(d) Filing a notice of intent with the Commissioner will lead to one of the following results:

(1) Where the project meets the requirements of § 248.221 of this part—

(i) The Commissioner will approve the prepayment or the termination of mortgage insurance pursuant to § 248.221 of this part, and all low income affordability restrictions will be terminated with respect to some or all of the units; however, the owner would be responsible for ensuring that displaced current tenants are relocated to affordable housing, if necessary.

(ii) The Commissioner will approve the prepayment or termination of mortgage insurance pursuant to § 248.221 of this part, and all low income affordability restrictions will be terminated, except (where necessary because the project is located in a housing market where there is insufficient comparable, decent, safe and sanitary affordable housing to meet the needs of all current tenants) with regard to protection of current very low income, low income and moderate income tenants;

(2) Where the plan of action would not be approvable under § 248.221 of this part—

(i) The Commissioner will approve prepayment or the termination of mortgage insurance, but the owner will receive assistance under a State, local or other Federal government housing program, and will receive incentives pursuant to § 248.231 of this part from the Federal government in return for agreeing to conditions related to the continued use of the project as low income housing in accordance with § 248.233 of this part.

(ii) The Commissioner will not approve prepayment or the termination of mortgage insurance, but will provide incentives to the owner pursuant to § 248.231 of this part in accordance with a plan of action meeting the standards of § 248.233 of this part;

(iii) The Commissioner will not approve prepayment or the termination of mortgage insurance, but, after failing to reach agreement on a negotiated plan of action, the owner and the Commissioner will agree to a package of incentives and restrictions prescribed by § 248.241 of this part; or

(iv) The Commissioner will not approve prepayment or the termination of mortgage insurance, and will not offer incentives of any kind.

(Approved by the Office of Management and Budget under OMB control number 2502–0378)

§ 248.213 Plan of action.

(a) *Preparation and submission.* The owner shall submit the plan of action to the Commissioner in such form and manner as the Commissioner shall prescribe. The owner may submit the plan of action simultaneously to any appropriate State or local government agency, which shall, in reviewing the plan, consult with representatives of the tenants of the housing.

(b) *Contents.* The plan of action shall include:

(1) A description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing, as authorized under § 248.231 of this part; or may include a request to terminate the insurance contract.

(2) A description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and the agencies;

(3) A description of any proposed changes in the low income affordability restrictions;

(4) A description of any proposed changes in ownership related to the plan of action, prepayment or termination of mortgage insurance;

(5) An assessment of the effect of the proposed changes on existing tenants.

(6) In the case of a plan of action involving incentives, an appraisal using the residential income approach;

(7) In the case of a plan of action involving the termination of low income affordability restrictions, a statement of the effect, if any, of the proposed changes on the supply of housing affordable to low and very low income families in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(8) A market study which demonstrates that the project is located in a market area that would enable the Commissioner to make the findings set forth at § 248.221(b)(1); and

(9) Any other information which the owner may choose to submit which would enable the owner to meet the

criteria for approval of the proposed plan of action.

(Approved by the Office of Management and Budget under OMB control number 2502-0378)

§ 248.215 Notification of deficiencies.

Not later than 60 days after receipt of a plan of action, the Commissioner will notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, the notice shall describe ways, if any, in which the plan of action could be revised to meet the criteria for approval.

§ 248.217 Revisions to plan of action.

The owner may from time to time revise the plan of action before its approval as may be necessary to obtain the Commissioner's approval thereof.

§ 248.218 Tenant notice and opportunity to comment.

When the owner and the Commissioner have reached preliminary agreement on the terms of a plan of action, the Commissioner shall prepare a summary of such terms and the anticipated impact of the plan of action on the current tenants. The owner shall send a copy of the summary to each tenant in the project, and shall post a copy of the summary in each occupied building in the project. The summary shall notify tenants that they have sixty calendar days in which to submit any comments to the Commissioner, who shall take any such comments into account before giving final approval to the plan of action.

(Approved by the Office of Management and Budget under OMB control number 2502-0378)

§ 248.219 Notification of approval.

(a) Not later than 180 days after initial receipt of a plan of action, or within such longer period as the owner requests, the Commissioner shall notify the owner in writing whether the plan of action, including any revisions, is approved.

(b) If approval is withheld, the notice will—

(1) Describe the reasons for withholding approval, including prolonged delay by the owner in submitting a revised plan of action;

(2) Describe the actions that could be taken to meet the criteria for approval; and

(3) Afford the owner a reasonable opportunity to revise the plan of action and seek approval.

§ 248.221 Approval of a plan of action that involves termination of low income affordability restrictions.

The Commissioner may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

(a) Implementation of the plan of action will not materially increase economic hardship for current tenants (and will not in any event result in: (1) A monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent, whichever is lower, or (2) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent, whichever is lower) or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available, determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement. Notwithstanding this limitation, the Commissioner may provide housing assistance to tenants if such assistance is not essential to the Commissioner's determination that the requirements of this paragraph have been met. The owner will agree to execute and allow the recordation of use agreements, where such agreements are necessary to safeguard current tenants against such adverse effects. Such use agreements will include a requirement that the owner comply with those provisions of part 247 of this chapter which relate to evictions; and

(b)(1) The supply of vacant, comparable housing is sufficient to ensure that the prepayment will not materially affect—

(i) The availability of decent, safe and sanitary housing affordable to lower income and very low income families in the area that the housing could reasonably be expected to serve;

(ii) The ability of lower income and very low income families to find decent, safe and sanitary housing near employment opportunities; or

(iii) The housing opportunities of minorities in the community within which the housing is located; or

(2) The plan of action has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction in which the housing is located as being in accordance with a State strategy approved by the Commissioner under § 248.223 of this part.

§ 248.223 Alternative State strategy.

(a) The Commissioner may approve a State strategy providing for State approval of plans of action that involve termination of low income affordability restrictions only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

(1) Current tenants will not be involuntarily displaced (except for good cause);

(2) Housing opportunities for minorities will not be adversely affected in the communities in which the housing is located;

(3) Any increase in rent for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenants or fair market rent, whichever is lower, and any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if the increase exceeds 10 percent;

(4) Housing approved under the State strategy will remain affordable to very low income, low income and moderate income families for not less than the remaining term of the mortgage, if the housing is to be made available for rental use, or for not less than 40 years, if the housing is to be made available for homeownership;

(5)(i) Not less than 80 percent of all units in eligible low income housing approved under the State strategy will be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applied to housing on January 1, 1987; and

(ii) Not less than 60 percent of the units in any one project will remain available to and affordable by such families or persons, within which not less than 20 percent of the units will remain available to and affordable by very low income families;

(6) Expenditures for rehabilitation, maintenance and operation will be at a level necessary to maintain the housing as decent, safe and sanitary and for the period specified in paragraph (a)(4) of this section;

(7) Not less than 25 percent of new assistance required to maintain the housing as available to and affordable by low income families in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low income tax credits, State or local tax concessions, the provision of funds from housing finance agency reserves or housing trust funds, taxable bonds, and other

incentives provided by the State or local governments; and

(8) For each unit of eligible low income housing approved under the State strategy that is not retained as affordable housing to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide, with State funds, one additional unit of comparable housing in the same market area that is available to and affordable by such families and persons. Such units will be provided by conversion of existing units or construction of new units. These units or funds will be made available before the Commissioner approves the State strategy.

(b) *Additional requirements.* (1) The State must enter into all agreements necessary to carry out the State strategy before receiving the Commissioner's approval.

(2) Each State strategy shall include any other provision that the Commissioner determines to be necessary to implement the approved State strategy.

§ 248.231 Incentives to extend low income use.

The Commissioner may agree to provide one or more of the following incentives to induce the project owner to extend the low income use of the project, if the Commissioner determines that such incentives are warranted under the standards in § 248.233 of this part:

(a) An increase in the allowable distribution, or other measures to increase the rate of return;

(b) Revisions to the method of calculating equity;

(c) Increased access to residual receipts funds or excess reserve for replacements funds;

(d) Provision of insurance for an equity loan;

(e) An increase in the rents permitted under an existing section 8 contract, within statutory and regulatory limits otherwise applicable, or (subject to the availability of amounts provided in appropriations Acts) additional assistance under section 8 or an extension of any project-based assistance attached to the housing;

(f) Provision of a capital improvement loan;

(g) Other actions to facilitate a transfer or sale of the housing to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Commissioner, such as expedited review of a request for approval of a transfer of physical assets;

(h) Provision of flexible subsidy assistance;

(i) Termination of HUD's limitations on distributions, and release of residual receipts and reserve for replacements funds, through prepayment of the mortgage; and

(j) Any other incentives for which the owner is eligible.

§ 248.233 Approval of a plan of action that includes incentives.

The Commissioner may approve a plan of action that includes incentives, whether or not the plan of action allows for the prepayment of the mortgage, only upon a finding that—

(a) After taking into account local market conditions, the incentives are necessary to achieve the purposes of this part;

(b) The incentives are necessary to provide a fair rate of return to the owner. Incentives will only be provided in cases where the project's current use does not represent its highest and best use;

(c) The incentives are the least costly alternative for the Federal government to achieve the purposes of this part with respect to the housing;

(d) Binding commitments have been made to ensure that—

(1) The housing will be retained as housing affordable for very low income families, lower income families, and moderate income families for the remaining term of the mortgage;

(2) Throughout the remaining term of the mortgage, adequate expenditures will be made for the proper maintenance and operation of the housing;

(3) Current tenants will not be involuntarily displaced (except for good cause);

(4) Any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent, whichever is lower;

(5) Any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs) will be phased in equally over a period of not less than 3 years, if the increase is 30 percent or more, and will be limited to not more than 10 percent per year, if the increase is more than 10 percent but less than 30 percent;

(6) Subject to the availability of funds, the Commissioner shall provide, and the owner shall accept, assistance under section 8 if the Commissioner determines that such assistance is necessary to mitigate any adverse effect of the rent increases on current tenants eligible for section 8 assistance; and

(7) Rents for units becoming available to new tenants will be at levels approved by the Commissioner that will ensure, to the extent practicable, that the units will be available to and affordable, with 30 percent of adjusted income, by the same proportion of very low income families, lower income families, and moderate income families as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Commissioner in February 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low income families.

(i) For purposes of paragraph (d)(7) of this section—

(A) The percentage of moderate income families in occupancy as of January 1, 1987 shall include families who were admitted to the project as very low income, low income, or moderate income families but whose incomes had increased beyond the limit for moderate income families by January 1, 1987; and

(B) The proportions established shall not prohibit a higher proportion of very low income families from occupying the housing.

(ii) In approving rents under paragraph (d)(7) of this section, the Commissioner will take into account any additional incentives provided under this part and will make provision for annual rent adjustments necessary as a result of future reasonable increases in operating costs.

(e) In cases where the owner agrees to maintain only a portion of the project as low income housing, the incentives provided under § 248.231 of this part and the standards imposed under this section shall be adjusted accordingly.

§ 248.234 Section 8 rental assistance

(a) When providing rental assistance under section 8, the Commissioner may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action.

(b) The contract and the approved plan of action shall provide that, if the Commissioner is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Commissioner, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

(1) Modification of the binding commitments made pursuant to § 248.233(d) that are dependent on such rental assistance.

(2) If action under paragraph (b)(1) is not feasible, release of an owner from the binding commitments made pursuant to § 248.233(d) that are dependent on such rental assistance.

(3) If actions under paragraphs (b)(1) and (2) would, in the determination of the Commissioner, result in the default of the insured loan, approveal of the revised plan of action, notwithstanding § 248.221, that involves the termination of low-income affordability restrictions.

(c) At least 30 days prior to making a request under the preceding sentence, an owner shall notify the Commissioner of the owner's intention to submit the request. The Commissioner shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under paragraph (b).

§ 248.235 Right of conversion to alternative prepayment system.

Any agreement to extend low income affordability restrictions under § 248.233 of this part shall, until February 5, 1992, provide the owner the right to convert to any system of incentives and restrictions provided in law during that period, with adjustments determined by the Commissioner to be appropriate to compensate for the value of any benefits the owner has received under this part.

§ 248.241 Modification of existing regulatory agreements.

(a) If a plan of action is not approved within 300 days after initial submission, the Commissioner may, upon request of the owner and upon making a determination that the project's current use does not represent its highest and best use, modify existing regulatory agreements to—

(1) Prevent involuntary displacement of current tenants (except for good cause);

(2) Ensure that adequate expenditures will be made for maintenance and operation of the housing;

(3) Extend (subject to the availability of funds) any expiring project-based assistance on the housing for the term of the agreement;

(4) Permit an increase in the allowable distribution that could be accommodated by an increase in the rents on occupied units to a level no higher than 30 percent of the adjusted income of the tenants, as determined by the Commissioner, except that rents shall not exceed the fair market rent, and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years, unless such increase is less than 10 percent; and

(5) Ensure that units becoming vacant during the term of the agreement are made available in accordance with § 248.233(d)(7) of this part.

(b) *Expiration.* Agreements entered into under this section shall expire on February 5, 1992, unless earlier superseded by an agreement implementing a HUD-approved plan of action. Upon such expiration of the agreement on February 5, 1992, the housing covered by the agreement shall be subject to any law then affecting low income affordability restrictions.

§ 248.251 Consultation with other interested parties.

The Commissioner will confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this part and will give consideration to the views of the State or local agency when making the determinations under §§ 248.221 and 248.233 of this part. The Commissioner also will confer with other interested parties that the Commissioner believes could assist in the development of a plan of action that best achieves the purposes of this part.

§ 248.261 Agreements implementing plans of action and State strategies.

The Commissioner is authorized to enter into agreements, including those for the provision of incentives, necessary to implement any plan of action or State strategy approved by the Commissioner under this part.

PART 221—LOW AND MODERATE INCOME MORTGAGE INSURANCE

2. The authority for part 221 continues to read as follows:

Authority: Sec. 211, 221, National Housing Act (12 U.S.C. 1715(b), 1715*l*); section 221.544(a)(3) is also issued under section 201(a) of the National Housing Act, 12 U.S.C. 1707(a).

3. In § 221.524, paragraph (a)(1) introductory text is revised, and a new paragraph (e) is added, to read as follows:

§ 221.524 Prepayment privileges.

(a) *Prepayment in full*—(1) *Without prior Commissioner consent.* Except as otherwise provided in paragraphs (d) and (e) of this section, a mortgage indebtedness may be prepaid in full and the Commissioner's controls terminated without the prior consent of the Commissioner in the following cases:

* * * * *

(e) *Prepayment of mortgages subject to Part 248.* Where the mortgage described in paragraph (a)(1) of this section is, or prior to assignment to the Commissioner was, insured under section 221(d)(3) of the Act and the mortgagor receives payments from the Commissioner under part 215 of this chapter or project-based assistance under parts 880, 881 or 886 of this title, or where the mortgage is, or prior to assignment to the Commissioner was, insured under section 221(d)(5) of the Act, the mortgage may be prepaid in full only in accordance with a plan of action approved by the Commissioner under part 248 of this title.

4. In § 221.531, the first sentence in the introductory text of paragraph (b) and the first portion of the sentence up to the ";" in paragraph (b)(3) is revised, to read as follows:

§ 221.531 Supervision applicable to general mortgagors.

* * * * *

(b) *Rate of return.* Except as approved by the Commissioner under part 248 of this chapter, dividends or other distributions as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period. * * *

* * * * *

(3) Unless otherwise agreed to by the Commissioner under part 248 of this chapter, distributions may be made for projects insured under this part which are also assisted under part 880 (section 8—New Construction), part 881 (section 8—Substantial Rehabilitation) or part 883 (section 8—State Housing Agencies) only in accordance with the provisions on limited distributions of the applicable section 8 regulation contained at §§ 880.205, 881.205 or § 883.306 of this title, respectively; * * *.

* * * * *

5. Section 221.532 is revised to read as follows:

§ 221.532 Supervision applicable to limited distribution mortgagors.

(a) The provisions of § 221.531(b) of this part (rate of return) shall apply to limited dividend mortgagors, except that, unless the Commissioner has agreed otherwise under part 248 of this chapter, the amount of any allowable distribution or disbursement from surplus cash shall not exceed any one fiscal year more than 6 percent of the mortgagor's initial equity investment as determined by the Commissioner.

(b) The right of any allowable distribution or disbursement from surplus cash shall be cumulative.

(c) Unless otherwise agreed to by the Commissioner under part 248 of this chapter, for projects insured under this part which are also assisted under part 880 (section 8—New Construction), part 881 (section 8—Substantial Rehabilitation) or part 883 (section 8—State Housing Agencies), the provisions on limitation on distributions of the applicable section 8 regulation, contained at 24 CFR 880.205, 881.205, or 883.306 respectively, shall apply; except that for small projects and partially-assisted projects, as defined in part 880, 881 or 883 of this title, whichever is applicable, paragraphs (a) and (b) of this section shall apply.

6. A new § 221.753 is added to read as follows:

§ 221.753 Termination of mortgage insurance.

In addition to the provisions of § 207.253a, the following requirements apply to certain multifamily mortgages insured under section 221 of the National Housing Act:

(a) For those projects qualifying as eligible low income housing under § 248.201, the contract of insurance may be terminated only as provided in part 248.

(b) For those projects subject to section 250(a) of the National Housing Act, the contract of insurance may be terminated only if the Commissioner determines that the requirements of section 250(a) are met.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

7. The authority for part 236 continues to read as follows:

Authority: Secs. 211 and 236 of the National Housing Act (12 U.S.C. 1715(b) and 1715z–1); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

8. In § 236.10, a new paragraph (e) is added to read as follows:

§ 236.10 Eligible mortgagors

* * * * *

(e) *Public entity.* Where a State or local government receives interest reduction payments under section 236(b) of the National Housing Act, the mortgagor may be a public entity which has acquired the project pursuant to a plan of action approved under § 248.233.

9. In § 236.30, paragraph (a)(1) is revised, and a new paragraph (f) is added, to read as follows:

§ 236.30 Prepayment privileges.

(a) *Prepayment in full—(1) Without prior Commissioner consent.* Except as provided in paragraph (f) of this section, a mortgage indebtedness may be prepaid in full and the Commissioner's controls terminated without the prior consent of the Commissioner where the mortgagor is a limited distribution type and either of the following conditions is met:

(i) If the prepayment occurs after the expiration of 20 years from the date of final insurance endorsement of the mortgage, provided the mortgagor is not receiving payments from the Commissioner under a rent supplement contract pursuant to the provisions of part 215 of this chapter; or

(ii) If the prepayment occurs as a result of the sale of the project to a cooperative or private nonprofit corporation or association, provided the sale is financed with a mortgage insured under § 236.40(d) of this part.

* * * * *

(f) *Prepayment of mortgages subject to part 248.* Mortgages which are described in paragraph (a)(1) of this section and which are, or prior to assignment to the Commissioner were, insured under this part, may be prepaid in full only in accordance with a plan of action approved by the Commissioner pursuant to part 248 of this chapter.

10. Section 236.50(a) is revised to read as follows:

§ 236.50 Supervision applicable to limited distribution mortgagors.

(a) Except as agreed to otherwise by the Commissioner under part 248 of this chapter—

(1) Dividends or other distributions as defined in the charter, trust agreement, or regulatory agreement, may be declared or made only as of or after the end of a semiannual or annual fiscal period; and

(2) The amount of any allowable distribution, or disbursement from surplus cash, shall not exceed in any one fiscal year more than 6 percent of the mortgagor's initial equity investment in the project, as determined by the Commissioner.

* * * * *

11. Section 236.55 is amended by revising the introductory text in paragraph (b) and by adding introductory text to paragraph (c) to read as follows:

§ 236.55 Rental charges.

* * * * *

(b) *Monthly Rental Charge.* Except as agreed to by the Commissioner pursuant to a plan of action approved under part 248 of this chapter, monthly rental charges * * *

* * * * *

(c) *Special Conditions.* Except as agreed to by the Commissioner pursuant to a plan of action approved under part 248 of this chapter:

* * * * *

12. Section 236.60 is revised to read as follows:

§ 236.60 Excess rental charges.

Except as agreed to by the Commissioner pursuant to a plan of action approved under part 248 of this chapter or in connection with an adjustment of contract rents under section 8(c)(10) of the United States Housing Act of 1937, the mortgagor shall agree * * *

13. A new § 236.254 is added to read as follows:

§ 236.254 Termination of mortgage insurance.

In addition to the provisions of § 207.253a, the following requirements apply to multifamily mortgages insured under section 236 of the National Housing Act:

(a) For those projects qualifying as eligible low income housing under § 248.201, the contract of insurance may be terminated only as provided in part 248.

(b) For those projects subject to section 250(a) of the National Housing Act, the contract of insurance may be terminated only if the Commissioner determines that the requirements of section 250(a) are met.

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

14. The authority for part 241 continues to read as follows:

Authority: Sec. 211, 241, National Housing Act (12 U.S.C. 1715(b), 1715z–6); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

15. Part 241 is revised by adding new subparts E and F, to read as follows:

Subpart E—Insurance for Equity Loans—Eligibility Requirements

Sec.

Subpart E—Insurance for Equity Loans—Eligibility Requirements

§ 241.1000 Purpose and scope.

Section 231 of the Housing and Community Development Act of 1987 amended the National Housing Act (the "Act") by adding a new subsection (f) to section 241. This section authorizes the Secretary to provide insurance for an equity loan as a vehicle for the owner of an eligible multifamily project to capture a portion of the project's equity. The insurance of the equity loan may be provided only as a specific element of a plan of action approved by the Commissioner under section 225 of the Housing and Community Development Act of 1987, where the Commissioner does not approve prepayment of the senior mortgage, and is not available under any other departmental program. The provisions of section 225 of the Housing and Community Development Act of 1987 terminate on September 30, 1990, and therefore, unless the aforesaid section is extended, an equity loan shall be insured only if the plan of action is approved by the Commissioner on or before September 30, 1990.

§ 241.1005 Definitions.

(a) All of the definitions of § 241.1 apply to equity loans insured under this subpart E except the following definitions:

241.1(i)—Borrower
241.1(k)—Energy conserving improvements
241.1(l)—Solar energy system

(b) As used in this subpart, the following terms have the meaning indicated:

Borrower means the owner of an eligible low income housing project, which owner receives and becomes primarily obligated for the repayment of an equity loan. This term includes a public entity, a nonprofit organization or a limited equity tenant cooperative corporation, which entity is purchasing an eligible low income housing project by means of an equity loan and is obligated for the payment of the equity loan.

Eligible low income housing has the same meaning as provided at § 248.201 of this chapter.

Equity means, for purpose of subparts E and F of this part only, the difference between the fair market value of the project as determined by the Commissioner and the outstanding indebtedness relating to the property.

Equity Loan means a loan or advance of credit to the owner of an eligible low income housing project which is made for the purpose of implementing a plan of action approved in accordance with part 248 of this chapter.

Limited equity tenant cooperative corporation means a tenant cooperative corporation which, in a manner acceptable to the Secretary, restricts the initial and resale price of the shares of stock in the cooperative corporation so that the shares remain affordable to lower income families and moderate income families.

Lower income families has the same meaning as provided at § 248.201 of this chapter.

Moderate income families has the same meaning as provided for at § 248.201 of this chapter.

Plan of action has the same meaning as provided at § 248.201 of this chapter.

§ 241.1010 Feasibility letter.

(a) *Request for study.* The owner may request the Commissioner to undertake a feasibility analysis of an equity loan, and issue a feasibility letter. At the discretion of the Commissioner the feasibility analysis may be undertaken or denied.

(b) *Findings.* The issuance of a feasibility letter indicates completion of the Commissioner's preliminary analysis for the insurance of an equity loan. The feasibility letter shall contain the Commissioner's estimate of the supportable loan amount, but shall neither constitute a commitment to insure nor bind the Commissioner in any other manner.

(c) *Fee.* The Commissioner shall not charge a fee for undertaking a feasibility analysis or for the issuance of a feasibility letter.

§ 241.1015 Application and commitment fees.

(a) *Application.* An application for the issuance of either a conditional or firm commitment for insurance of an equity loan on a project shall be submitted by an approved lender and by the owner of the project to the Commissioner on a form prescribed by the Commissioner. No application shall be considered unless the exhibits called for by such forms are furnished.

(b) *Application and commitment fees.*

(1) *Application for conditional commitment.* An application-commitment fee of $2.00 per thousand dollars of the amount of the loan applied for shall accompany the application for a conditional commitment.

(2) *Application for firm commitment.* An application for a firm commitment shall be accompanied by the payment of an application-commitment fee in an amount which, when added to any prior fee received in connection with a conditional commitment application, will aggregate $3.00 per thousand dollars of the loan applied for.

§241.1020 Commitments.

(a) *Conditional commitment.* The issuance of a conditional commitment constitutes an agreement by the Commissioner, subject to specified terms and conditions, to accept an application for a firm commitment.

(b) *Firm Commitment.* The issuance of a firm commitment indicates the Commissioner's approval of the application for insurance and sets forth the terms and conditions upon which the equity loan will be insured. The firm commitment may provide for the insurance of advances of equity loan proceeds as rent levels are achieved in accordance with a plan of action, or may provide for the insurance of the entire equity loan immediately upon endorsement of the note.

(c) *Term of commitment.* (1) A conditional commitment is effective for whatever term is specified in the text of the commitment.

(2) A firm commitment is effective for whatever term is specified in the text of the commitment.

(3) The term of either a conditional or firm commitment may be extended in such manner as the Commissioner may prescribe.

(d) *Reopening of expired commitments.* An expired conditional or firm commitment may be reopened if a request for reopening is received by the Commissioner within 90 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars

of the amount of the expired commitment. If the reopening request is not received by the Commissioner within the required 90-day period, a new application, accompanied by the required application and commitment fee, must be submitted.

§241.1025 Refund of fees.

If the amount of the commitment issued is less than the amount applied for, the Commissioner shall refund the excess amount of the application and commitment fees submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application and commitment fees or any portion thereof may be returned to the applicant. Commitment and reopening fees may also be refunded to the applicant, in whole or in part, in such other instances as the Commissioner may determine.

§241.1030 Mortgage insurance premiums.

The lender, upon endorsement of the note, shall pay the Commissioner a first mortgage insurance premium equal to 0.5 percent of the original face amount of the equity loan.

(a) If the date of the first principal payment is more than one year following the date of endorsement, the lender, upon each anniversary of such endorsement date, shall pay a premium equal to 0.5 percent of the original face amount of the loan. On the date of the first principal payment, the lender shall pay another premium equal to 0.5 percent of the average outstanding principal obligation of the loan for the following year which shall be adjusted so as to accord with such date and so that the aggregate of said premiums shall equal to the sum of:

(1) 0.5 percent of the average outstanding principal obligation of the loan for the year following the date of endorsement and (2) 0.5 percent per annum of the average outstanding principal obligation of the loan for the period from the first anniversary of the date of endorsement to one year following the date of the first principal payment.

(b) If the date of the first principal payment is one year or less than one year following the date of endorsement, the lender, upon such first principal payment date, shall pay a second premium equal to 0.5 percent of the average outstanding principal obligation of the loan for the following year which shall be adjusted so as to accord with such date and so that the aggregate of the said two premiums shall equal the sum of:

(1) 0.5 percent per annum of the average outstanding principal obligation of the loan for the period from the date of endorsement to the date of the first principal payment and (2) 0.5 percent of the average outstanding principal obligation of the loan for the year following the date of the first principal payment.

(c) Until the equity loan is paid in full or until receipt by the Commissioner of an application for insurance benefits, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the lender, on each anniversary of the date of the first principal payment, shall pay an annual insurance premium equal to 0.5 percent of the average outstanding principal obligation of the loan for the year following the date on which such premium becomes payable.

(d) The premiums payable on or after the date of the first principal payment shall be calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

(e) Premiums shall be payable in cash or in debentures at par plus accrued interest. All premiums are payable in advance and no refund can be made of any portion thereof except as hereinafter provided in this subpart.

§ 241.1035 Charges by lender.

(a) The lender may collect from the borrower the amount of the fees provided for by this subpart.

(b) The lender may also collect from the borrower an initial service charge, as reimbursement for the cost of closing the transaction, in an amount not to exceed two percent of the original principal amount of the loan.

(c) Any charges to be collected by the lender in addition to those prescribed in paragraphs (a) and (b) of this section, shall be subject to the prior approval of the Commissioner.

§ 241.1040 Eligible lenders.

Lenders meeting the applicable eligibility qualifications and requirements contained in §§ 203.1 through 203.4 of § 203.6 of this chapter are eligible for insurance of equity loans under this subpart.

§ 241.1045 Note and security form.

The Lender shall present for insurance a note and security instrument on forms approved by the Commissioner for use in the jurisdiction in which the property is located, which shall not be changed without the prior approval of the Commissioner. The security instrument shall provide for accelerated repayment at the request of the Commissioner pursuant to § 241.1046(b).

§ 241.1046 Rental assistance.

(a) When underwriting an equity loan under this subpart, the Commissioner may assume that the rental assistance provided in accordance with a plan of action approved under § 248.233 will be extended for the full term of the contract entered into under § 248.234(a).

(b) In the event that rental assistance is not extended under § 248.234(a) or the Commissioner is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action, the Commissioner may require the mortgagee to accelerate repayment of the equity loan.

(c) If the Commissioner is unable to extend the term of rental assistance for the full term of the contract entered into under § 248.234(a), the Commissioner is authorized to take such actions as the Commissioner deems appropriate to avoid default, avoid disruption of the sound ownership and management of the property or otherwise minimize the cost to the Federal Government.

§ 241.1050 Method of loan payment.

The loan shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payments in accordance with the amortization plan as agreed upon by the borrower, the lender, and the Commissioner.

§ 241.1055 Date of first payment to principal.

The date for first payment to principal shall be established by the Commissioner.

§ 241.1060 Maturity.

The loan shall have a maturity satisfactory to the Commissioner.

§ 241.1065 Maximum loan amount.

The amount of the equity loan shall not exceed ninety percent of the owner's equity in the project, as determined by the Commissioner. Notwithstanding the above, the amount of the equity loan shall not exceed an amount which, when added to the existing indebtedness on the property, can be supported by ninety percent of the projected net income of the project, as determined by the Commissioner. The Commissioner, in making a determination regarding the amount of an equity loan and sums available to service the said loan, shall take into account that the project's income may increase within the established limits of § 248.233(d) of this chapter.

§ 241.1070 Agreed interest rate.

The equity loan shall bear interest at the rate agreed upon by the borrower and the lender.

§ 241.1080 Eligibility of title.

In order for the project to be eligible for insurance, the Commissioner shall determine that the title to the property is vested in the borrower as of the date the security instrument is filed for record. The title evidence will be examined by the Commissioner and the endorsement of the credit instrument for insurance shall be evidence of its acceptability.

§ 241.1085 Title evidence.

(a) Upon insurance of the loan, the lender shall furnish to the Commissioner a policy of title insurance as provided in paragraph (a)(1) of this section. If the lender is unable to furnish such policy for reasons satisfactory to the Commissioner, the lender shall furnish such evidence of title as provided in paragraph (a) (2), (3) or (4) of this section as the Commissioner may require. Any policy of title insurance, or evidence of title required under this section shall be furnished without expense to the Commissioner. The acceptable types of title evidence are:

(1) A policy of title insurance issued by a company satisfactory to the Commissioner. Such policy shall comply with the "L.I.C. Standard Mortgage Form," or the "ALTA Standard Mortgage Form," or such other form as may be approved by the Commissioner; shall name the lender and the Secretary of Housing and Urban Development, as their respective interests may appear, as the insured; and shall become an owner's policy, running to the lender as owner upon its acquisition of the property in extinguishment of the debt, and to the Secretary as owner upon his acquisition of the property pursuant to the loan insurance contract.

(2) An abstract of title satisfactory to the Commissioner, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Commissioner, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(3) A Torrens or similar title certification.

(4) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

§ 241.1090 Accumulation of next premium.

The security instrument shall provide for payments by the borrower to the lender on each interest payment date of an amount sufficient to accumulate in the hands of the lender one payment period prior to its due date the next annual insurance premium payable by the lender to the Commissioner. These payments shall continue only as long as the contract of insurance remains in effect.

§ 241.1095 Application of payments.

(a) The security instrument shall provide that all monthly payments to be made by the borrower shall be added together and the aggregate amount shall be paid by the borrower upon each monthly payment date in a single payment. The lender shall apply the payment in the following order:

(1) Premium charges under the contract of insurance.
(2) Interest on the loan.
(3) Amortization of the principal of the loan.

(b) Any deficiency in the amount of any monthly payments required under paragraph (a) of this section shall constitute a default. The security instrument shall provide for a grace period of 30 days within which time the default must be cured.

§ 241.1100 Prepayment privilege and charges.

(a) *Prepayment privilege.* (1) Except as otherwise provided in paragraph (b) of this section, the security instrument shall contain a provision permitting the borrower to prepay the loan, in whole or in part, upon any interest payment date after giving to the lender 30 days advance notice of its intention to prepay.

(2) If the loan exceeds $200,000, the security instrument may contain a provision for an additional charge in the event of prepayment of principal as may be agreed upon between the borrower and lender. These charges shall not be imposed if the loan is accelerated at the request of the Commissioner, pursuant to § 241.1046(b). The borrower shall be permitted to prepay up to 15 percent of the original principal amount of the loan in any one calendar year without any additional charge. A provision for an additional charge in the event of prepayment may not be included in a loan of $200,000 or less.

(b) *Prepayment of bond-financed loan.* Where the lender has obtained the funds for the loan by the issuance and sale of bonds or bond anticipation notes, or both, the loan may contain a prepayment restriction and prepayment penalty charges acceptable to the Commissioner as to term, amount, and conditions.

§ 241.1105 Late charge.

The note and security instrument may provide for the lender's collection of a late charge, not to exceed 2 cents for each dollar of each payment to interest or principal more than 15 days in arrears, to cover the expense involved in handling delinquent payments. Late charge shall be separately charged to and collected from the borrower and shall not be deducted from any aggregate monthly payment.

§ 241.1120 Mortgagee's consent.

The holder of an insured mortgage which is recorded prior to the equity loan shall not withhold its consent to the equity loan or the security instrument executed in connection with the equity loan transaction which subjects the project to the lien thereof.

Subpart F—Insurance for Equity Loans—Contract Rights and Obligations

§ 241.1200 Cross-references.

(a) All the provisions of part 207, subpart B of this chapter, covering mortgages insured under section 207 of the Act, apply to equity loans on a project insured under section 241(f) of the Act, except the following provisions:

Sec.
207.251 Definitions.
207.252 First, second and third premium.
207.252a Premiums—operating loss loans.
207.252b Premiums—mortgages insured pursuant to section 223(f) of the Act.
207.252c Premiums—mortgages insured pursuant to section 238(c) of the Act.
207.254 Insurance endorsement.

(b) For the purposes of this subpart, all references in part 207 of this chapter to section 207 of the Act and to the term "mortgage" shall be construed to refer to section 241(f) of the Act and "equity loan," respectively.

(c) All of the definitions in § 241.1005 apply to this subpart. In addition, as used in this subpart, the term "contract of insurance" means the agreement evidenced by the Commissioner's insurance endorsement and includes the provisions of this subpart and of the Act.

§ 241.1205 Payment of insurance benefits.

All the provisions of § 207.259 of this chapter relating to insurance benefits shall apply to an equity loan insured under this subpart, except that insurance benefits shall be payable in cash if the insurance benefits under the senior insured mortgage are payable in cash, unless the lender files a written request for payment in debentures. If such a request is made, payment shall

be made in debentures with a cash payment to adjust for any difference between the total amount of the insurance payment and the amount of the debentures issued.

§ 241.1210 Condition for payment of insurance benefits.

(a) All of the provisions of § 207.258 of this chapter apply to this subpart, except that, if the holder of the senior insured mortgage institutes a forclosure action, the lender shall notify the Commissioner in a timely manner of such action. The Commissioner, at its option, may then direct the lender to assign the equity loan to the Commissioner, or bid an amount necessary to acquire the project and convey the project to the Commissioner.

(b) If the equity loan is assigned in accordance with this section, the Commissioner at a foreclosure sale may bid, in addition to amounts otherwise authorized, any sum not in excess of the aggregate unpaid indebtedness secured by the senior insured mortgage and equity loan, plus taxes, insurance, foreclosure costs, fees and other expenses.

§ 241.1215 Calculation of insurance benefits.

All of the provisions of § 207.259 of this chapter apply to this subpart, except that if the lender, at the direction of the Commissioner, acquires title to the project at a foreclosure sale instituted by the holder of the senior insured mortgage, the amount of the claim determined under § 207.259(c) of this chapter shall also include an amount bid by the lender to satisfy the senior insured mortgage at the foreclosure sale.

§ 241.1220 Termination of insurance benefits.

All of the provisions of § 207.253a of this chapter apply to this subpart, except that the following shall also constitute grounds for terminating the contract of insurance:

(a) The failure of the lender to notify the Commissioner in a timely manner of a foreclosure action initiated by the holder of the senior insured mortgage; and

(b) The failure of the lender when directed by the Commissioner to assign the equity loan or bid an amount necessary to acquire title to the project and convey the project to the Commissioner, in accordance with § 241.1210 of this part.

§ 241.1230 No vested right in fund.

Neither the lender nor the borrower shall have any vested or other right in the insurance fund under which the loan is insured.

§ 241.1235 Cross default.

In the event the borrower commits a default under a prior recorded insured mortgage and the holder thereof initiates a foreclosure proceeding, said default under the prior recorded insured mortgage shall constitute a default under the equity loan.

§ 241.1245 Insurance endorsement.

(a) *Endorsement.* The Commissioner shall indicate his insurance of the equity loan by endorsing the original credit instrument and identifying the section of the Act and the regulations under which the loan is insured and the date of insurance.

(b) *Endorsement of phased loan.* In the event the loan is phased, the Commissioner shall indicate his insurance of each amount by endorsing the original credit instrument and identifying the section of the Act and the regulations under which such amount is insured and the date of the insurance.

(c) *Final advance of phased loan.* When all advances of a phased loan have been made and the terms and conditions of the commitment have been complied with to the satisfaction of the Commissioner, he shall indicate on the original credit instrument the total of all advances he has approved for insurance and again endorse such instrument.

§ 241.1250 Effect of endorsement.

From the date the equity loan is endorsed, the Commissioner and the lender shall be bound by the provisions of this subpart to the same extent as if they had executed a contract including the provisions of this subpart and the applicable sections of the Act.

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

16. The authority citation for part 50 continues to read as follows:

Authority: Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); Executive Order 11514, 35 FR 4247 (March 5, 1970); Executive Order 11991, 42 FR 26967 (May 24, 1977); sec. 7 (d), Department of Housing and Urban Development Act (42 U.S.C. 3535 (d)).

17. In § 50.20, a new paragraph (n) is added, to read as follows:

§ 50.20 Categorical exclusions.

* * * * *

(n) Approval of mortgage prepayments or plans of action (including incentives) under the Emergency Low Income Housing Preservation Act of 1987, and approval of mortgage prepayments under other statutes or authorities, when the proposal does not involve demolition of any building, or parts of any building, containing the primary use served by the project.

Dated: July 18, 1990.

Jack Kemp,

Secretary.

[FR Doc. 90-22305 Filed 9-20-90; 8:45 am]

BILLING CODE 4210-32-M

federal register

Friday
September 21, 1990

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 27 and 29

Rotorcraft Airworthiness Amendments Based on European Joint Airworthiness Requirements Proposals; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No. 25885; Amendments 27-27 and 29-31]

RIN 2120-AC27

Rotorcraft Airworthiness Amendments Based on European Joint Airworthiness Requirements Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the airworthiness standards for systems, propulsion, and airframe for both normal and transport category rotorcraft. In addition, these amendments introduce safety improvements, clarify existing regulations, and standardize terminology. The changes are based on some of the proposals that were submitted to the FAA by the European Airworthiness Authorities. These amendments are also intended to encourage the European community's acceptance of the Federal Aviation Regulations for rotorcraft type certification, obviate development of different European standards, and achieve increased commonality of airworthiness standards among the respective countries.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jim S. Honaker, FAA, Regulations Group, ASW-111, Rotorcraft Directorate, Aircraft Certification Service, Fort Worth, Texas 76193-0111, telephone number (817) 624-5109.

SUPPLEMENTARY INFORMATION:

Background

At a meeting between FAA representatives and the European Airworthiness Authorities Steering Committee (AASC) in April 1983, the AASC agreed to provide the FAA with a comprehensive list of recommended changes to Federal Aviation Regulations (FAR) part 29 to make it suitable for adoption by AASC members. The AASC subsequently established a Joint Airworthiness Requirements (JAR) group on part 29 (JAR 29 group) to develop transport category rotorcraft airworthiness standards for European type certification programs. This JAR 29 group, charged with providing recommended changes for part 29, submitted a comprehensive list of proposals in September 1984.

The initial FAA review of the JAR proposals revealed that many proposals were included in existing rulemaking projects. For those proposals not included in existing rulemaking projects, the FAA determined that several warranted public discussion by interested persons. Accordingly, a public meeting was held in Fort Worth, Texas, May 1-2, 1986 (51 FR 4504, February 5, 1986). A transcript of the meeting is included in the docket for this rulemaking. Although the AASC proposals were confined to part 29, and only part 29 proposals were discussed at the public meeting, these amendments affect the rotorcraft certification rules in both parts 27 and 29. Including part 27 in this rulemaking action will standardize parts 27 and 29 where parallel sections presently exist.

As a result of the JAR proposals and the public meeting, the FAA issued Notice of Proposed Rulemaking No. 89-10, which was published in the Federal Register on April 25, 1989 (54 FR 17936).

All interested persons have been given an opportunity to participate in the making of these amendments, and due consideration has been given to all matters presented. A number of nonsubstantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review by the FAA. Except as indicated herein, the proposals contained in the notice have been adopted without change.

Discussion of Comments

Three commenters, one representing an industry association and two airworthiness authorities of other countries, responded to the notice. The commenters support the notice with some recommended changes. These recommendations and their disposition are contained in the following discussions.

Section 27.401/Section 29.401 Auxiliary Rotor Assemblies; Section 27.403/ Section 29.403 Auxiliary Rotor Attachment Structure

The notice proposed to remove these load requirement sections, since the references and requirements are adequately addressed in §§ 27.337/ 29.337, 27.339/29.339, and 27.341/29.341. Only one comment was received, which supports the proposal; therefore, these amendments are adopted as proposed.

Section 27.413/Section 29.413 Stabilizing and Control Surfaces

The notice proposed to remove these load requirement sections, since the structural requirements are addressed by §§ 27.337/29.337, 27.339/29.339, and 27.341/29.341. One commenter responded and supports the removal of these sections; therefore, these amendments are adopted as proposed.

Section 27.427/Section 29.427 Unsymmetrical Loads

After NPRM Notice No. 89-10 was issued, these two sections were adopted as Amendments 27-26 and 29-30 (55 FR 7992, March 6, 1990). The references to §§ 27.413 and 29.413, contained in new §§ 27.427 and 29.427, are being removed by these amendments.

Section 27.775/Section 29.775 Windshields and Windows

The notice proposed to revise these sections to clarify that transparency materials other than glass may be used if "they will not break into dangerous fragments."

The AASC reiterated their original proposal that recommended a requirement in § 29.775 for a material that would not suddenly turn opaque. This specific requirement was not included in proposed § 27.775 or § 29.775, because the requirements in §§ 27.773 and 29.773 for the pilot's view "to be sufficiently extensive, clear, and undistorted to permit safe operation" obviate additional requirements. After further evaluation, the FAA continues to believe that §§ 27.773 and 29.773 provide adequate requirements for a clear and undistorted pilot's view. Therefore, these amendments are adopted as proposed.

Section 27.787/Section 29.787 Cargo and Baggage Compartments

The notice proposed to revise paragraph (c) to require occupant protection for all emergency landing loads on cargo and baggage; i.e., vertical and sideward as well as forward loads. No comments were received; however, after further FAA review, minor editorial changes have been made for clarity. Other than minor editorial changes, the amendment is adopted as proposed.

Section 29.783 Doors

The notice proposed to add a new paragraph (h) to require a means to secure a nonjettisonable door in the open position during emergency egress in a ditching. Only one comment was received, which supports the proposal; therefore, the amendment is adopted as proposed.

Section 29.811 Emergency Exit Marking

The notice proposed to revise paragraph (a) to include a requirement

that emergency exit markings must be lighted or luminous, and that, for rotorcraft equipped for overwater flight, the markings must be designed to remain visible if the rotorcraft is capsized and submerged. Only one commenter responded and supports the proposal. A minor editorial change has been made for clarity and other than that, the amendment is adopted as proposed.

Section 29.903 Engines.

The notice proposed to clarify the requirements for control of engine rotation and in-flight restart of engines. One commenter contends an independent engine starting system requirement following in-flight shutdown of all engines without considering windmilling of the engine (as in part 25) would be unnecessarily severe. The FAA does not agree; normally, rotorcraft airspeeds and location of engines do not support engine windmilling up to start speeds. However, the FAA has determined that engine restart capability following in-flight shutdown of all engines is the primary requirement, and the means of providing this capability should be a choice of the applicant. The notice addressed only electrical power requirements for starting while other factors such as windmilling speeds are permitted to be considered. Consequently, paragraph (e)(3) has been revised, and the proposal is adopted with this change.

Section 29.923 Rotor Drive System and Control Mechanism Tests

The notice proposed to add a new paragraph (p) to define qualification testing of lubricants used in the rotor drive system and control mechanism. Paragraph (p) contains a requirement for a portion of the system qualification tests to be accomplished with specific lubricating oil temperatures and pressures. One commenter suggests that all lubricants qualified to the same specification as the lubricant used during the endurance tests should also be acceptable without further testing. The same commenter also suggests that an analysis of lubricant specifications should be permitted, rather than requiring a complete rerun of the tests to qualify a new lubricant. The FAA agrees with both comments, and the suggested changes have been incorporated.

A second commenter suggests that these new test conditions should be applicable to all rotor drive system and control mechanism qualification tests, not just to qualify a lubricant. The commenter further suggests that paragraph (a) of this section include a reference to the requirements of new paragraph (p), in addition to the current requirements. The FAA agrees, and this change has been made.

A third commenter notes that the minimum temperature tests are normally accomplished during cold weather testing rather than during the tie-down testing. The commenter further notes that the maximum oil temperature and minimum oil pressure tests could be accomplished with pump adjustments and control of cooling airflow, but that it would be almost impossible to cool the entire system to minimum temperatures during the tie-down testing. The FAA agrees, and proposed paragraph (p)(4) has been removed.

The amendment has been adopted with these changes.

Section 29.929 Flight Endurance Test; Withdrawn

The notice proposed to add a new § 29.929 to include the flight test requirement contained in § 21.35, since the AASC has no requirement similar to part 21. There are unresolved technical and economic questions relative to this requirement. In view of this, the proposal is withdrawn for further study.

Appendix B to Part 29—Airworthiness Criteria for Helicopter Instrument Flight

The notice proposed to add a new paragraph VIII(c) to include thunderstorm lights as part of the equipment for instrument flight. Only one comment was received, which supports the proposal; therefore, the amendment is adopted as proposed.

Economic Evaluation Summary

This section summarizes the full regulatory evaluation that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, and Federal, State, and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a regulatory impact analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual increase in consumer costs, a significant adverse effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or a high level of controversy.

The FAA has determined that this rule is not "major" as defined in the executive order, and, therefore, a full regulatory analysis that includes the identification and evaluation of cost reducing alternatives to this rule has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a regulatory flexibility determination, required by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), and an international trade impact assessment. The full regulatory evaluation is contained in the docket for this rulemaking.

As noted in the Discussion of Comments, the proposal for § 29.929 has been withdrawn for further study. Proposed § 29.929 would have required a 150-hour flight endurance test to demonstrate the functioning and compatibility of the rotors and rotor drive system. Section 29.929 was the only proposal in the notice that was determined to have an economic impact.

The remaining regulatory amendments contained in this final rule have been determined to have negligible or no economic costs. The amendments are editorial or clarifying in nature, incorporate current industry or FAA certification practice, and can be accomplished with negligible or no economic costs. Since all the remaining amendments have either negligible or no economic costs, no attempt has been made to quantify or forecast their benefits.

The clarifying, editorial, and conforming amendments in this rule have no economic cost and are expected to produce only minor administrative and compliance benefits. By comparison, the six substantive amendments that address structural, equipment, or testing requirements have been determined to have only a negligible cost impact but will improve safety conditions. It is likely that they will reduce injuries or fatalities that would occur otherwise. The benefits derived from each of these amendments will equal or exceed the costs when the amendment prevents one serious injury.

Trade Impact Statement

Since the certification rules apply to both foreign and domestic manufacturers that sell in the United States, there will be no competitive advantage to either. Certification costs

that may be imposed by this rule will not result in a competitive trade advantage or disadvantage for American manufacturers in foreign markets. This is because foreign manufacturers must comply with the certification standards of the largest segment of their export market, which in this instance is the U.S. market. The FAA expects that, to remain competitive in overseas markets, foreign vendors will export a similarly equipped rotorcraft to both the United States and other countries.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act (RFA) of 1980, the amendments to parts 27 and 29 contained in this final rule will not have a significant economic impact on a substantial number of small entities. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for determining whether a proposed or existing rule has a significant economic impact on a substantial number of small entities. Under the FAA criteria, a small entity helicopter manufacturer is defined as an independently owned and operated firm having fewer than 75 employees. Only 1 of the 13 rotorcraft manufacturers subject to the certification changes in parts 27 and 29 has fewer than 75 employees. Accordingly, the amendments contained in this final rule will not impact a substantial number of small entities.

Federalism Implications

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For these reasons, and based on the findings in the Regulatory Flexibility Determination, the Trade Impact Statement, and the Regulatory Evaluation, the FAA has determined that these amendments are not major under Executive Order 12291. In addition, the FAA certifies that these amendments will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. These amendments are considered nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evluation of the amendments, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Parts 27 and 29

Air transportation, Aircraft, Aviation safety, Rotorcraft, Safety.

Adoption of the Amendments

Accordingly, parts 27 and 29 of the Federal Aviation Regulations (14 CFR parts 27 and 29) are amended as follows:

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

1. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

§§ 27.401, 27.403, 27.413 [Removed]

2. Section 27.401, 27.403 and 27.413 are removed.

§ 27.427 [Amended]

3. Section 27.427 is amended by removing the words "in § 27.413" from paragraphs (b)(1) and (b)(2).

4. Section 27.775 is revised to read as follows:

§ 27.775 Windshields and windows.

Windshields and windows must be made of material that will not break into dangerous fragments.

5. Section 27.787 is amended by revising paragraph (c) to read as follows:

§ 27.787 Cargo and baggage compartments.

* * * * *

(c) Under the emergency landing conditions of § 27.561, cargo and baggage compartments must—

(1) Be positioned so that if the contents break loose they are unlikely to cause injury to the occupants or restrict any of the escape facilities provided for use after an emergency landing; or

(2) Have sufficient strength to withstand the conditions specified in § 27.561 including the means of restraint, and their attachments, required by paragraph (b) of this section. Sufficient strength must be provided for the maximum authorized weight of cargo and baggage at the critical loading distribution.

* * * * *

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

6. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, and 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449; January 12, 1983).

§§ 29.401, 29.403, 29.413 [Removed]

7. Sections 29.401, 29.403, and 29.413 are removed.

§ 29.427 [Amended]

8. Section 29.427 is amended by removing the words "in § 29.413" from paragraphs (b)(1) and (b)(2).

9. Section 29.775 is revised to read as follows:

§ 29.775 Windshields and windows.

Windshields and windows must be made of material that will not break into dangerous fragments.

10. Section 29.783 is amended by adding a new paragraph (h) to read as follows:

§ 29.783 Doors.

* * * * *

(h) Nonjettisonable doors used as ditching emergency exits must have means to enable them to be secured in the open position and remain secure for emergency egress in sea state conditions prescribed for ditching.

11. Section 29.787 is amended by revising paragraph (c) to read as follows:

§ 29.787 Cargo and baggage compartments.

* * * * *

(c) Under the emergency landing conditions of § 29.561, cargo and baggage compartments must—

(1) Be positioned so that if the contents break loose they are unlikely to cause injury to the occupants or restrict any of the escape facilities provided for use after an emergency landing; or

(2) Have sufficient strength to withstand the conditions specified in § 29.561, including the means of restraint and their attachments required by paragraph (b) of this section. Sufficient strength must be provided for the maximum authorized weight of cargo and baggage at the critical loading distribution.

* * * * *

12. Section 29.811 is amended by revising paragraph (a) to read as follows:

§ 29.811 Emergency exit marking.

(a) Each passenger emergency exit, its means of access, and its means of opening must be conspicuously marked for the guidance of occupants using the exits in daylight or in the dark. Such markings must be designed to remain visible for rotorcraft equipped for overwater flights if the rotorcraft is capsized and the cabin is submerged.

* * * * *

13. Section 29.903 is amended by revising paragraph (c); by redesignating paragraph (f) as paragraph (d); and by adding a new paragraph (e) as follows:

§ 29.903 Engines.

* * * * *

(c) *Category A: control of engine rotation.* For each Category A rotorcraft, there must be a means for stopping the rotation of any engine individually in flight, except that, for turbine engine installations, the means for stopping the engine need be provided only where necessary for safety. In addition—

(1) Each component of the engine stopping system that is located on the engine side of the firewall, and that might be exposed to fire, must be at least fire resistant; or

(2) Duplicate means must be available for stopping the engine and the controls must be where all are not likely to be damaged at the same time in case of fire.

* * * * *

(e) *Restart capability.* (1) A means to restart any engine in flight must be provided.

(2) Except for the in-flight shutdown of all engines, engine restart capability must be demonstrated throughout a flight envelope for the rotorcraft.

(3) Following the in-flight shutdown of all engines, in-flight engine restart capability must be provided.

14. Section 29.923 is amended by revising the introductory text of paragraph (a) and by adding a new paragraph (p) to read as follows:

§ 29.923 Rotor drive system and control mechanism tests.

(a) *Endurance tests, general.* Each rotor drive system and rotor control mechanism must be tested, as prescribed in paragraphs (b) through (n) and (p) of this section, for at least 200 hours plus the time required to meet paragraphs (b)(2) and (k) of this section. These tests must be conducted as follows:

* * * * *

(p) *Endurance tests; operating lubricants.* To be approved for use in rotor drive and control systems, lubricants must meet the specifications of lubricants used during the tests prescribed by this section. Additional or alternate lubricants may be qualified by equivalent testing or by comparative analysis of lubricant specifications and rotor drive and control system characteristics. In addition—

(1) At least three 10-hour cycles required by this section must be conducted with transmission and gearbox lubricant temperatures, at the location prescribed for measurement, not lower than the maximum operating temperature for which approval is requested;

(2) For pressure lubricated systems, at least three 10-hour cycles required by this section must be conducted with the lubricant pressure, at the location prescribed for measurement, not higher than the minimum operating pressure for which approval is requested; and

(3) The test conditions of paragraphs (p)(1) and (p)(2) of this section must be applied simultaneously and must be extended to include operation at any one-engine-inoperative rating for which approval is requested.

15. Appendix B to part 29 is amended by adding a new paragraph VIII(c) to read as follows:

Appendix B to Part 29—Airworthiness Criteria for Helicopter Instrument Flight

* * * * *

VIII * * *

(c) *Thunderstorm lights.* In addition to the instrument lights required by § 29.1381(a), thunderstorm lights which provide high intensity while flood lighting to the basic flight instruments must be provided. The thunderstorm lights must be installed to meet the requirements of § 29.1381(b).

* * * * *

Issued in Washington, DC, on September 17, 1990.

James B. Busey,

Administrator.

[FR Doc. 90-22421 Filed 9-20-90; 8:45 am]

BILLING CODE 4910-13-M

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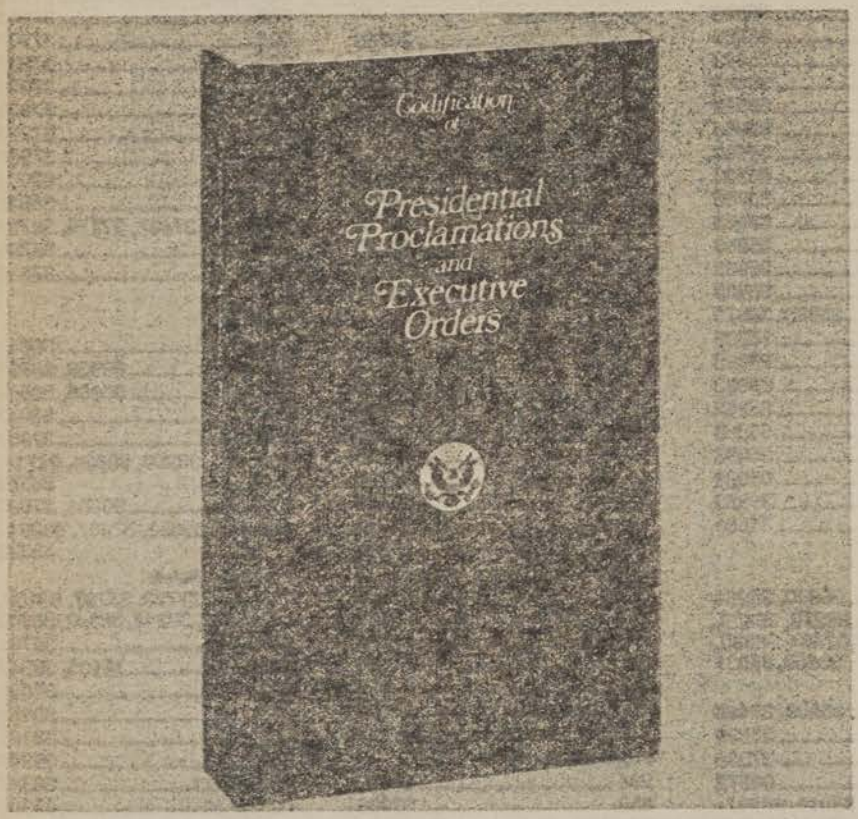

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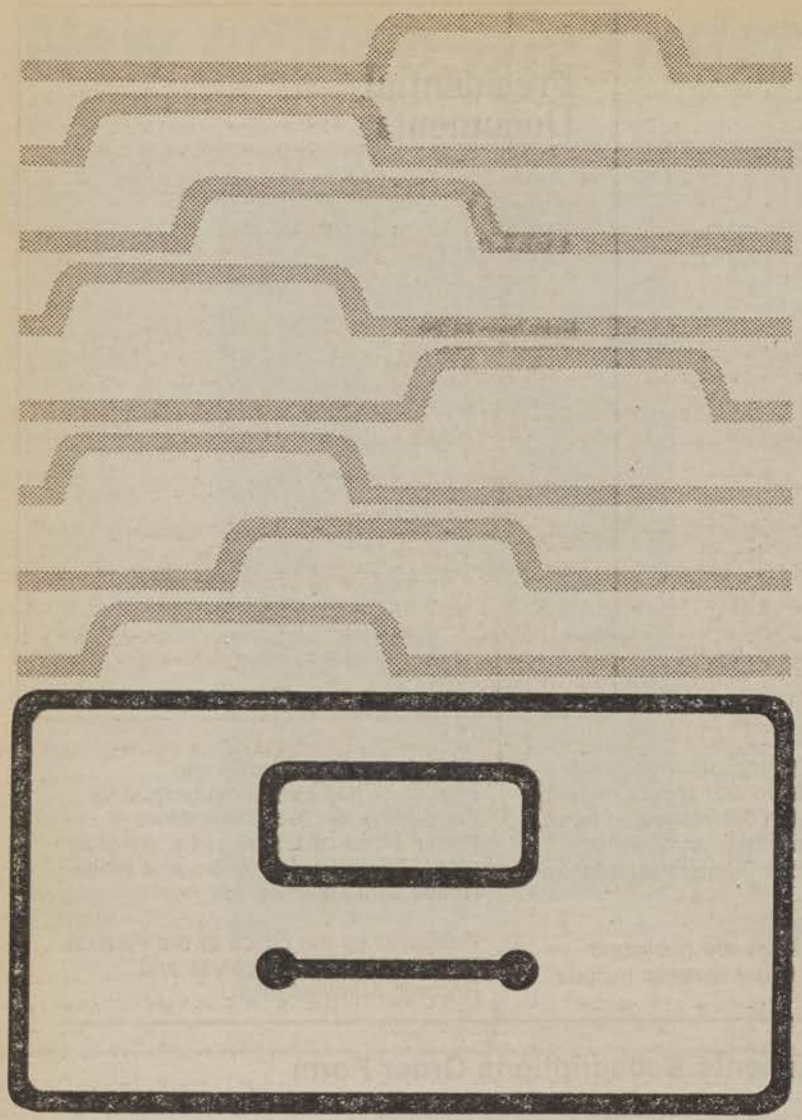

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in the Code of Federal Regulations (CFR)

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